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| 98TH CONGRESS *2d Session* | HOUSE OF REPRESENTATIVES | REPORT 98-1186 |
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# REPORT
# ON
# LEGISLATIVE REVIEW ACTIVITY
# DURING THE 98TH CONGRESS
# OF THE
# COMMITTEE ON
# WAYS AND MEANS

JANUARY 2, 1985.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## COMMITTEE ON WAYS AND MEANS

98TH CONGRESS

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## LETTER OF TRANSMITTAL

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COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
*Washington, DC., January 2, 1985.*

Hon. THOMAS P. O'NEILL, Jr.,
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: I am herewith transmitting, pursuant to the Rules of the House of Representatives, the report of the Committee on Ways and Means on its legislative review activity during the 98th Congress.

Sincerely,

DAN ROSTENKOWSKI, *Chairman.*

98TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
98-1186

# REPORT ON LEGISLATIVE REVIEW ACTIVITY DURING THE 98TH CONGRESS OF THE COMMITTEE ON WAYS AND MEANS

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JANUARY 2, 1985.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

## REPORT

### LEGISLATIVE REVIEW ACTIVITY OF THE COMMITTEE ON WAYS AND MEANS DURING THE 98TH CONGRESS

#### FOREWORD

Section 136 of the Legislative Reorganization Act of 1946, as originally enacted, provided for legislative review by standing committees of the House of Representatives of the execution of laws falling within the jurisdiction of such committees. The Legislative Reorganization Act of 1970 (Public Law 91-510) and Public Law 92-136 amended the 1946 provision to add the requirement that the jurisdictional standing committees of the House file in "each odd numbered year * * * not later than January 2 * * * a report on the activities of that committee * * * during the Congress ending at noon on January 3 of such year".

The full text of section 136 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d), as amended by the Legislative Reorganization Act of 1970 (Public Law 91-510), by Public Law 92-136 and by Public Law 93-344 is provided below:

> SEC. 136. (a) In order to assist the Congress in—
>
> (1) Its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and
>
> (2) Its formulation, consideration, and enactment of such modification of or changes in those laws, and of such additional legislation, as may be necessary or appropriate.

each standing committee of the Senate and the House of Representatives shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee. Such committees may carry out the required analysis, appraisal, and evaluation themselves, or by contract, or may require a Government agency to do so and furnish a report thereon to the Congress. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time.

(b) In each odd-numbered year beginning on or after January 1, 1973, each standing committee of the Senate shall submit, not later than March 31, to the Senate, and each standing committee of the House shall submit, not later than January 2, to the House, a report on the activities of that committee under this section during the Congress ending at noon on January 3 of such year.

(c) The preceding provisions of this section do not apply to the Committees on Appropriations and the Budget of the Senate and the Committees on Appropriations, the Budget, House Administration, Rules, and Standards of Official Conduct of the House.

The following report is submitted by the Committee on Ways and Means pursuant to the above provisions of law.

## LEGISLATIVE JURISDICTION

The legislative jurisdiction of the Committee on Ways and Means during the 98th Congress was provided by rule X, clause 1 of the Rules of the House of Representatives, as follows:

(v) Committee on Ways and Means—

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to the insular possessions.

(5) The bonded debt of the United States.

(6) The deposit of public moneys.

(7) Transportation of dutiable goods.

(8) Tax-exempt foundations and charitable trusts.

(9) National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.

In the 98th Congress, the Committee on Ways and Means had six standing subcommittees:

Subcommittee on Oversight;

Subcommittee on Social Security;

Subcommittee on Health;

Subcommittee on Trade;

Subcommittee on Public Assistance and Unemployment Compensation; and

Subcommittee on Select Revenue Measures.

Under Rule 4(6) of the Rules of the Committee on Ways and Means, the jurisdiction of the Subcommittee on Oversight:

> * * * shall include all matters within the scope of the Committee but shall be limited to existing law and said oversight jurisdiction shall not be exclusive but shall be concurrent with that of the other subcommittees, and with respect to matters involving the Internal Revenue Code said concurrent jurisdiction shall be shared with the full Committee. Before undertaking any investigation or hearing the Chairman of the Subcommittee on Oversight shall confer with the Chairman of the full Committee and the Chairman of any other subcommittee having jurisdiction.

Pursuant to this provision of the committee's rules, each of the legislative subcommittees and the full committee have conducted oversight activities in their own areas of jurisdiction, while the Subcommittee on Oversight has provided special attention to particular areas of concern to the committee.

While the Committee on Ways and Means has always provided legislative review of the programs under its jurisdiction, largely through its tradition of frequent and extensive public hearings, the establishment of specific subcommittees in 1974, including the Subcommittee on Oversight, significantly increased the committee's legislative review capability. Accordingly, the legislative review activities of the committee and its subcommittees during the 98th Congress resulted in more efficient and effective administration of the laws and programs under the committee's jurisdiction.

The membership of the six subcommittees of the Committee on Ways and Means in the 98th Congress was as follows:

SUBCOMMITTEE ON OVERSIGHT

CHARLES B. RANGEL, New York, *Chairman*

SAM M. GIBBONS, Florida
J.J. PICKLE, Texas
FRANK J. GUARINI, New Jersey
BERYL ANTHONY, JR., Arkansas
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
JAMES G. MARTIN, North Carolina
JOHN J. DUNCAN, Tennessee
CARROLL A. CAMPBELL, JR., South Carolina
WILLIAM M. THOMAS, California

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SUBCOMMITTEE ON SOCIAL SECURITY

J.J. PICKLE, Texas, *Chairman*

ANDY JACOBS, JR., Indiana
RICHARD A GEPHARDT, Missouri
JAMES M. SHANNON, Massachusetts
WYCHE FOWLER, JR., Georgia
ROBERT T. MATSUI, California
BERYL ANTHONY, JR., Arkansas
BILL ARCHER, Texas
BILL GRADISON, Ohio
PHILIP M. CRANE, Illinois
WILLIAM M. THOMAS, California

SUBCOMMITTEE ON HEALTH

ANDY JACOBS, JR., Indiana, *Chairman*

CHARLES B. RANGEL, New York
HAROLD FORD, Tennessee
JAMES M. SHANNON, Massachusetts
MARTY RUSSO, Illinois
W. HENSON MOORE, Louisiana
JOHN J. DUNCAN, Tennessee
JAMES M. MARTIN, North Carolina

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SUBCOMMITTEE ON TRADE

SAM M. GIBBONS, Florida, *Chairman*

DAN ROSTENKOWSKI, Illinois
JAMES R. JONES, Oklahoma
ED JENKINS, Georgia
THOMAS J. DOWNEY, New York
DON J. PEASE, Ohio
KENT HANCE, Texas
CECIL (CEC) HEFTEL, Hawaii
MARTY RUSSO, Illinois
GUY VANDER JAGT, Michigan
BILL ARCHER, Texas
BILL FRENZEL, Minnesota
RICHARD T. SCHULZE, Pennsylvania
RICHARD M. CRANE, Illinois

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SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION

HAROLD FORD, Tennessee, *Chairman*

FORTNEY H. (PETE) STARK, California
DON J. PEASE, Ohio
KENT HANCE, Texas
ROBERT T. MATSUI, California
WYCHE FOWLER, JR., Georgia
BARBARA B. KENNELLY, Connecticut
CARROLL A. CAMPBELL, JR., South Carolina
W. HENSON MOORE, Louisiana
BILL FRENZEL, Minnesota
WILLIAM M. THOMAS, California

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SUBCOMMITTEE ON SELECT REVENUE MEASURES

FORTNEY H. (PETE) STARK, California, *Chairman*

CECIL (CEC) HEFTEL, Hawaii
FRANK J. GUARINI, New Jersey
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
BARBARA B. KENNELLY, Connecticut
ED JENKINS, Georgia
JOHN J. DUNCAN, Tennessee
RICHARD T. SCHULZE, Pennsylvania
GUY VANDER JAGT, Michigan
W. HENSON MOORE, Louisiana

The legislative review activities of the committee and its subcommittees in the 98th Congress in each major jurisdictional area are discussed below.

## THE INTERNAL REVENUE CODE AND TAX SIMPLIFICATION

### A. TAX REFORM AND SIMPLIFICATION

In the 98th Congress, the Committee on Ways and Means completed action on comprehensive tax legislation, H.R. 4170 (The Tax Reform Act of 1984). Although the main purpose of the bill was simplification and improvement of major portions of the present tax system, the bill also contained spending reduction provisions and increased revenues that would reduce the federal budget deficit. Below is an overall chronology of the legislative background in

the 98th Congress of the revenue provisions of H.R. 4170, enacted into law as the Deficit Reduction Act of 1984 (Public Law 98-369).[1]

### *1. House Action*

*H.R. 4170 as originally reported*

H.R. 4170 was introduced and was ordered to be reported on October 20, 1983, to incorporate the markup decisions of the House Committee on Ways and Means on various introduced tax bills and other amendments. A report was filed on H.R. 4170 on October 21, 1983 (H. Rep. No. 98-432).[2] In addition to seven tax titles, H.R. 4170 as reported included the Social Security Disability Benefits Reform Act of 1983, the Medicare Budget Reconciliation Amendments of 1983, and trade assistance amendments.

On November 16, 1983, the House Rules Committee granted a modified open rule (H. Res. 376) for consideration of H.R. 4170, which rule failed of passage on November 17, 1983.

*H.R. 4170 Committee amendment*

On March 1, 1984, the Committee on Ways and Means approved a Committee amendment as a substitute for H.R. 4170 as originally reported. The Committee filed a supplemental report on its amendment on March 5, 1984 (H. Rep. 98-432, Pt 2).

The Committee amendment included nine tax titles plus the Social Security disability, Medicare, and trade assistance titles. On March 7, 1984, the House Rules Committee granted a modified closed rule on H.R. 4170, making the Ways and Means Committee amendment (without the three nontax titles) in order as a substitute for H.R. 4170 as originally reported (H. Res. 462). The House adopted the rule on April 11, 1984, and passed the bill with the Committee amendments, including a technical amendment, by a vote of 318-97 on April 11, 1984. H.R. 4170 was received in the Senate on April 26, 1984, and placed on the Senate Legislative Calendar (Senate Calendar No. 800).

*H.R. 2163*

H.R. 2163, the Sport Fish Restoration Act of 1983, was introduced on March 16, 1983, and referred to the House Committee on Merchant Marine and Fisheries. The Subcommittee on Coast Guard and Navigation marked up the bill on April 20, 1983, and forwarded the bill (adding amendments relating to the Federal Boat Safety Act of 1971) to the full Committee on Merchant Marine and Fisheries on April 20. The full Committee marked up the bill on May 10, 1983, and reported the bill as amended on May 16, 1983 (H. Rep. No. 98-133, Part 1).

H.R. 2163 was sequentially referred to the Committee on Ways and Means for a period ending July 15, 1983. The Ways and Means Committee held a hearing on June 2, 1983, and marked up the bill

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[1] The Deficit Reduction Act of 1984 (P.L. 98-369) is divided into two main parts, Division A and Division B. The Tax Reform Act of 1984 (H.R. 4170 is Division A. Division B (Spending Reduction Act of 1984) contains spending reduction provisions (described in this document, infra, and several tax related provisions.

[2] Except for the provision relating to the tex-exempt status of the National Fish and Wildlife Foundation.

on June 29, 1983. The bill was reported by the Ways and Means Committee with an amendment in the nature of a substitute on July 1, 1983 (H. Rep. No. 98-133, Pt. 2).

On July 12, 1983, as the House by voice vote suspended the rules and passed H.R. 2163, as amended by the Ways and Means Committee. Thus, as passed by the House, the bill related primarily to the Sport Fish Restoration and Federal Boat Safety Programs, and the excise taxes on sport fishing equipment and motorboat fuels that finance these programs. The House-passed bill also included provisions relating to the excise tax on certain arrows and the tax-exempt status of the proposed National Fish and Wildlife Foundation (contained in a separate bill, H.R. 2809, subsequently enacted in P.L. 98-244).

### *2. Senate Action*

*S. 2062*

The Senate Committee on Finance approved its fiscal year 1984 budget reconciliation recommendations (revenue and spending provisions) on October 31, 1983, and transmitted bill and report language on that date to the Senate Budget Committee. The Budget Committee included the Finance Committee's revenue and spending recommendations as title I (Defict Reduction Tax Act of 1983) of S. 2062 (Omnibus Reconciliation Act of 1983) as reported by the Budget Committee on November 4, 1983 (S. Rep. No. 98-300). S. 2062 was placed on the Senate Calendar on November 16, 1983, was considered on November 16-17, 1983, and was returned to the Calendar on November 18, 1983.

*H.R. 2163*

*1983 consideration*

H.R. 2163, as passed by the House, was referred to the Senate Finance Committee on July 13, 1983. A hearing was held on August 3, 1983, by the Finance Subcommittee on Taxation and Debt Management. The substance of the bill (with amendments) was included in the Finance Committee revenue reconciliation proposal in S. 2062 as reported.

The Finance Committee then marked up H.R. 2163 on November 7, 1983, and reported it on November 15, 1983 (S. Rep. No. 98-312), substituting miscellaneous trade and tariff matters from S. 230, S. 453, and S. 759 for the House-passed revenue provisions.

*1984 consideration*

*Finance Committee markup.*—The Finance Committee marked up its deficit reduction (revenue and spending) proposals on February 23, 28-29, and March 1, 7-8, 13-15, and 20-21, 1984, with Committee approval on March 21 of a deficit reduction proposal. The Finance Committee printed an explanation and statutory language of its deficit reduction proposal on April 2, 1984 (S. Prt. 98-169, Vols. I and II). The deficit reduction proposal included the revenue and spending provisions of S. 2062, with further amendments, as well as new provisions.

*Senate floor action.*—The Finance Committee deficit reduction proposal (revenue and spending provisions) was considered as a floor amendment to H.R. 2163, beginning on April 5, 1984, and continuing on April 9–12, 1984. The amendment, as amended by further Senate floor amendments, was approved on April 12, 1984, by a record vote of 76–5.

The Senate continued floor debate on spending-related amendments to H.R. 2163 on April 24–26, and 30, and May 1–3, 8–11, and 14–17, 1984.

*H.R. 4170*

The provisions of H.R. 2163, as amended by the revenue provisions (Deficit Reduction Tax Act of 1984) and the spending-related provisions, were substituted by the Senate as an amendment to H.R. 4170 on May 17, 1984, and passed by a record vote of 74–23.

### *3. Conference*

*Conference*

On May 17, 1984, the Senate insisted on its amendments and asked for a conference. Conferees appointed with respect to the revenue provisions were the following: Senators Dole, Packwood, Roth, Danforth, Chafee, Long, Bentsen, Matsunaga, and Baucus. On May 23, 1984, the House requested a conference and appointed the following as conferees with respect to the revenue provisions: Representatives Rostenkowski, Gibbons, Pickle, Rangel, Stark, Conable, Duncan, and Archer. Also on May 23 by unanimous consent, the House added a further amendment to the House-passed H.R. 4170 relating to certain spending reduction provisions. On May 24, 1984, the Senate disagreed to the further House amendment and agreed to a conference on the bill.

Conference was held on the revenue provisions on June 6–8, 12, 14–15, and 18–23, 1984. The conferees filed a conference report on H.R. 4170 on June 23, 1984 (H. Rep. No. 98–861). The Act was divided into Division A, Tax Reform Act of 1984, and Division B, Spending Reduction Act of 1984.

*House-Senate consideration of conference report*

The conference report on H.R. 4170 was passed on June 27, 1984, by a vote of 268–155 in the House, and by a vote of 83–15 in the Senate. A Concurrent Resolution (H. Con. Res. 328), to provide technical and clerical corrections to H.R. 4170, was passed by the House (voice vote) on June 27, 1984. H. Con. Res. 328 was amended and passed by the Senate (voice vote) on June 29, 1984, and was approved by the House (vocie vote) as amended on June 29, 1984.

### *4. Enactment of H.R. 4170*

H.R. 4170, the Deficit Reduction Act of 1984, was signed into law by President Reagan on July 18, 1984 (Public Law 98–369).

### B. EXPIRING PROVISIONS: TARGETED JOBS TAX CREDIT, EDUCATIONAL ASSISTANCE AND EXCLUSION FOR GROUP LEGAL SERVICES

The Subcommittee on Select Revenue Measures continued to review expiring provisions in the tax law. The targeted jobs credit which would have expired on January 1, 1985, was the subject of a hearing before the Subcommittee. Testimony was taken from the Treasury Department, Members of Congress, and public witnesses.

Based on this testimony, the targeted jobs credit was extended for one year as part of the Deficit Reduction Act of 1984 (sec. 1041 of Pub. L. 98-369).

The Subcommittee on Select Revenue Measures held a hearing on the exclusion from income and employment taxes for employee educational assistance, which was scheduled to expire December 31, 1984. Testimony was taken from the Treasury Department and public witnesses.

Based on this testimony, the Committee approved a two year extension of the exclusion through December 31, 1985, in H.R. 2568, with amendments to cap the amount of excludabe benefits to $5000 per employee per year and to impose an employer reporting requirement to the Internal Revenue Service. The bill was finally enacted into law as Public Law 98-611.

The Subcommittee on Select Revenue Measures held a hearing on the exclusion from income and employment taxes for qualified group legal services and the exemption for qualified group legal services plans which were scheduled to expire December 31, 1984. Testimony was taken from the Treasury Department and public witnesses.

Based on this testimony, the Committee approved a one year exension through December 31, 1985, of both the exclusion and the exemption as part of H.R. 5361. In addition, an employer reporting requirement to the Internal Revenue Service was imposed. The bill was finally enacted into law as Public Law 98-612.

### C. TAX TREATMENT OF EMPLOYEE FRINGE BENEFITS

The Subcommittee on Select Revenue Measures continued the Committee's oversight of the development of permanent rules governing the tax treatment of employee fringe benefits. In light of the imminent expiration of the moratorium on the issuance of regulations governing the tax treatment of non-statutory fringe benefits on December 31, 1983, the Subcommittee held a public hearing on H.R. 3525, the Permanent Tax Treatment of Fringe Benefits Act of 1983. Testimony was taken from Members of Congress and the public.

Based on this testimony, the Committee on Ways and Means subsequently approved H.R. 3525 with amendments. This legislation was finally enacted into law in the Deficit Reduction Act of 1984 (section 531 of Pub. L. 98-369).

In addition, the Subcommittee on Select Revenue Measures, in conjunction with the Subcommittee on Social Security, held a public hearing on the economics and distribution of statutory employee fringe benefits. Testimony was taken from the Treasury Department, the Department of Health and Human Services, and the Social Security Administration, as well as invited public witnesses.

The Subcommittees developed a substantial record for consideration by the Committee on Ways and Means in the next Congress.

### D. TAX TREATMENT OF PAYMENT-IN-KIND (PIK) PROGRAM

The Subcommittee on Select Revenue Measures held a hearing on November 3, 1983, on the tax treatment of payments made under the PIK program. Testimony was received from government agencies, Members of Congress, and the general public. Based on this testimony, the Subcommittee approved on November 9, 1983, an extension of the special tax rules for the PIK program. The treatment, however, was to be available only for up to $50,000 worth of PIK commodities. The full Committee on Ways and Means adopted these provisions as an amendment to H.R. 4170. This provision was finally enacted into law in the Deficit Reduction Act of 1984 (sec. 1061 of Pub. L. 89-369).

### E. TREATMENT OF NET OPERATING LOSSES

The Subcommittee on Select Revenue Measures held a hearing on September 22, 1983, on the carryover of net operating losses and other tax attributes of corporations. The Subcommittee reviewed the issue of whether the effective date of the 1976 Tax Reform Act revisions to section 382 and 383 [relating to the carryover of corporate net operating losses and other corporate attributes should be further delayed]. The Subcommittee agreed to postpone the effective date until November 1, 1984. This provision was adopted as an amendment to H.R. 4170 by the full Committee on Ways and Means. The conference Committee subsequently approved an amendment to H.R. 4170 that would extend the moratorium of the 1976 amendments to section 382 until December 31, 1985. This provision was enacted into law in the Deficit Reduction Act of 1984 (sec. 62 of P.L. 98-369).

### F. TAX TREATMENT OF LIFE INSURANCE COMPANY INCOME

The Subcommittee on Select Revenue Measures completed a major overhaul of the taxation of life insurance companies. The taxation of life insurance companies had not been subject to a thorough review since the enactment of the Life Insurance Company Income Tax Act of the Code of 1959 (secs. 801-820). The Subcommittee held hearings on the issue on May 10, 11, and July 28, 1983. Testimony was received from government agencies, Members of Congress, and the general public. On October 3, 1983, H.R. 4065 to amend the Internal Revenue Code of 1954 to simplify and improve the income tax treatment of life insurance companies and their products was reported to the full Committee by the Subcommittee on Select Revenue Measures. The full Committee on Ways and Means subsequently approved H.R. 4065 with amendments. This legislation was enacted into law in the Deficit Reduction Act of 1984 (sec. 201-231 of P.L 98-369).

### G. TAX-EXEMPT ENTITY LEASING

The Subcommittee on Oversight conducted a public hearing on tax aspects and policy issues related to leasing arrangements by the Federal government and other tax-exempt entities.

As a general rule, nonprofit entities such as Federal government departments and agencies, State and local governments, and charitable and educational organizations receive no benefit from cost recovery (depreciation) deductions or the investment tax credit because they are tax exempt. However, under prior law, under certain circumstances taxable companies were able to purchase and claim tax benefits on assets which are subsequently leased to tax-exempt entities. In these lease transactions a portion of the tax benefits available to the lessor may be passed through to the tax-exempt lessee in the form of lower rents. Thus, the leasing arrangement may permit certain tax benefits to flow through to tax-exempt entities which are not eligible for them on their own account. Because the tax benefits obtained through such leasing arrangements reduce Federal revenues, a portion of the property's cost is shifted to the U.S. Treasury.

The Subcommittee's hearing examined the extent of Federal revenue loss through these transactions and the extent to which in particular the extent of Federal agency leasing activity. Testimony was received from the Office of Management and Budget, the General Accounting Office, the General Services Administration and the Department of Defense.

Based on the testimony received at the hearing and other information, the Subcommittee issued a report with findings and legislative recommendations. Subsequently the Committee on Ways and Means held public hearings on this matter and H.R. 3110, legislation generally based on the Subcommittee's report. In general the provisions of H.R. 3110 were enacted into law as part of the Deficit Reduction Act of 1984 (P.L. 98-369).

### H. PRIVATE FOUNDATIONS

The Subcommittee on Oversight held three days of public hearings on June 27, 28, and 30, 1983 on Federal Tax rules applicable to private foundations.

In 1969, Congress enacted a comprehensive series of rules regulating private foundations. With limited exceptions, there had been no thorough review of these rules since the enactment of the Tax Reform Act of 1969 (P.L. 91-172). The hearings were held to develop information which would assist the Committee on Ways and Means in determining whether the foundation provisions enacted in the Tax Reform Act of 1969, ensure that only those private foundations operating for the public benefit enjoy favorable tax treatment without imposing unnecessary or unduly burdensome restrictions.

In addition to seeking information on issues surrounding present law rules governing private foundations, the Subcommittee also sought information on the following general issues:

(1) The role private foundation play in private philanthropy;

(2) the types of philanthropic activities private foundations undertake and the beneficiaries of their charitable distributions;

(3) how private foundations have responded to reductions in Federal spending for various social programs; and

(4) the value of foundation assets, the types of assets they hold, and the level of foundation charitable distributions.

In the 98th Congress, a number of bills were introduced to modify various private foundation rules or to provide exceptions to particular rules. While these bills were not specifically the focus of the Subcommittee hearings, as part of its review of the rules which govern private foundations, the Subcommittee examined proposed changes to those rules in the light of the policies which underlie present law.

Based on the testimony received during the hearings and other information, the Subcommittee on Oversight issued a report and recommendations for legislative changes. In general, the Subcommittee's recommendations were approved by the Ways and Means Committee and were incorporated into the Tax Reform Act of 1984, Division A of the Deficit Reduction Act of 1984 (P.L. 98-369).

### I. RESEARCH AND EXPERIMENTATION TAX EXPENDITURE ISSUES

The Subcommittee on Oversight held hearings to examine the two provisions contained in the Economic Recovery Tax Act of 1981 (ERTA) which relate to the tax treatment of research expenditures. Specifically, the Subcommittee reviewed the provisions which (1) provide that all research and experimental expenditures for research activities conducted in the United States be allocated or apportioned to sources within the United States, and (2) provide for a 25 percent tax credit for certain incremental research expenditures. Under prior law, the research source allocation rule applies only to expenditures paid or incurred during the taxpayer's first two taxable years beginning after August 13, 1981. Under present law, the 25 percent tax credit applies to expenditures made after June 1981, and before 1986.

The allocation of research and emperimental expenditures is important for purposes of calculating the foreign tax credit. Under I.R.C. Sections 861-3, a taxpayer is required to allocate or apportion expenses between foreign source income and U.S. source income. Treasury Regulation 1.861-8 sets forth the rules for allocating or apportioning these expenses. However, Section 223 of the Economic Recovery Tax Act of 1981 (ERTA) provide a two-year rule that allocates all research and experimental expenditures which are paid or incurrred for research activities conducted in the United States to U.S. sources, for all purposes under the Internal Revenue Code (I.R.C.).

On October 26 and November 3, 1983 the Subcommittee held hearings on the research and development allocation rules. Based on the testimony received at the hearings the Subcommittee issued a report and recommended a temporary extension of the moritorium on the Treasury Regulation 1.861-8. A two year extension of the moritorium was contained in the Deficit Reduction Act of 1984 (P.L. 98-369).

Section 221 of the Economic Recovery Tax Act of 1981 provides for a 25 percent tax credit for certain qualified research expenditures paid or incurred by a taxpayer in carrying on a trade or busi-

ness. Qualified research expenditures generally consist of "in house" expenditures by the taxpayer for research wages and supplies used in research, plus certain amounts paid for research use of laboratory equipment, computers, or other personal property, and 65 percent of certain amounts paid for contract research and basic research grants to universities and scientific research organizations. The credit applies to expenditures made after June 30, 1981, and before 1986, and is applicable to incremental expenditures above a base period amount according to the average of certain previous year expenditures.

The legislative history of the credit indicates that the 1986 sunset date was intended to give the Congress an opportunity to evaluate its operation and efficacy. Accordingly, the Subcommittee on Oversight held hearings on August 2 and 3, 1984 on the credit. The purpose of the hearings was to begin developing a record for the Committee on Ways and Means on issues related to the credit. During the hearing testimony was received from the Department of Treasury, the Congressional Budget Office, the National Science Foundation, tax and economic experts, interested industry groups and other invited and public witnesses. In addition, the General Accounting Office presented the results of a study requested by the Subcommittee regarding the impact of the tax credit on research activities under present law.

### J. SELF-INSURANCE AND PREMATURE ACCRUALS

On February 24, 1984, the Subcommittee on Oversight held public hearings concerning deductions to accrual basis taxpayers for amounts relating to a future obligation or liability.

Under present law, deductions by accrual basis taxpayers are allowable when all the events which establish the fact of liability have occurred and the amount thereof can be determined with reasonable accuracy. Accordingly, present law generally does not permit a current deduction for amounts set aside in a fund or trust to satisfy contingent liabilities. Also, such a fund or trust (and income therefrom), generally does not qualify for tax-exempt status.

The Subcommittee examined (1) present law tax and accounting principles affecting the timing and amount of deductions for obligations to be paid in the future (including amounts set aside or paid into a reserve account), and (2) the extent which present law accounts for the time value of money. The purpose of the hearing was to develop a record on these issues for future consideration by the Committee on Ways and Means.

### K. FEDERAL TAX TREATMENT OF LOW-INCOME PERSONS

On April 12, 1984, the Subcommittee on Oversight held public hearings to examine Federal Tax Treatment of low-income taxpayers and the poor.

Through the 1960's and 1970's Congress attempted, in several tax reduction bills, to eliminate the tax burden on families whose incomes were below the poverty line. The legislative history of the tax cut bills enacted in 1969, 1975, 1976, 1977, and 1978 indicates a Congressional desire to increase the level of income at which a

family begins to pay Federal income tax (termed the tax threshold or, alternatively, the tax entry point) above the poverty level. Several tools have been used to achieve this goal: the personal exemption, the standard deduction (now termed the zero bracket amount) and the earned income tax credit. In the past few years, however, these provisions have not kept pace with inflation, and as a result the income tax threshold had fallen well below the poverty line.

The Subcommittee's leasing focused on several overall issues:

(1) The effectiveness of the personal exemption, zero-bracket amount, the earned income tax credit or other provisions of the Internal Revenue Code, is alleviating the tax burden of low-income taxpayers and options for changes;

(2) The extent to which persons with incomes at or below the poverty line pay taxes generally and as a percentage of income;

(3) the extent to which taxes on low-income individuals have changed from the late 1970's to 1984 and how the tax burden will change in the future under current tax policy; and

(4) the present tax entry points in relation to the current poverty thresholds;

In general, based on the record developed by the Subcommittee provisions to increase the earned income tax credit, and thereby reduce Federal tax burdens on the poor, were enacted as part of the Deficit Reduction Act of 1984 (P.L. 98-369).

### L. DISCLAIMERS OF PROPERTY INTEREST CREATED BY TRANSFERS

On May 7, 1984 the Subcommittee on Oversight held a public hearing to review the Federal tax rules regarding disclaimers of certain property interests created by transfers.

In general, a disclaimer is a refusal to accept the ownership of property or rights with respect to property. If a qualified disclaimer is made, the Federal gift, estate and generation-skipping transfer tax provisions apply as if the interest had never been transferred to the person making the disclaimer. As a result, the transfer of the property pursuant to the disclaimer will not be treated as a taxable gift.

In the Tax Reform Act of 1976, the Congress adopted a set of uniform rules to govern disclaimers of property interests transferred after December 31, 1976, (I.R.C. Section 2518). Prior to the 1976 Act, there were no uniform Federal statutory disclaimer rules. Before the promulgation of Treasury regulations in 1958, the administrative practice of the Internal Revenue Service was to allow the Federal tax consequences of a disclaimer to depend upon its treatment under local law. In 1958, the Treasury Department issued regulations which provided that transfers of property pursuant to a disclaimer would not be treated as a taxable gift if the disclaimer (1) were effective under local law, and (2) were made within a reasonable time after knowledge of the existence of the transfer. The regulations applied to interests created by a transfer both before and after 1958. As a result, a disclaimer of an interest created in a transfer prior to November 15, 1958, would be qualified for Federal tax purposes only if it were made within a reasonable time after the original transfer creating the interest. Disputes

as to the timing of a qualified disclaimer have generated considerable litigation. The U.S. Supreme Court upheld the Treasury regulations in *Jewett* v. *Commissioner,* 102 S.Ct. 1082 (1982).

The Subcommittee's hearing examined the Supreme Court's decision in *Jewett.* Testimony was received from the Treasury Department and public witnesses.

### Legislative Review of Pension Matters

In the course of the 98th Congress the Committee on Ways and Means held legislative oversight hearings on several occasions in respect of the matter of the federal income tax treatment of qualified pension, annuity, stock bonus and profit-sharing plans.

On July 25, 1983, the Committee held a public hearing on H.R. 3475, which, inter alia, proposed to amend the Internal Revenue Code of 1954 with regard to certain rules relating to qualified bond purchase plans and retimement bond programs. On September 22, 1983, the Committee held another public hearing on H.R. 3805, the Technical Corrections Act of 1983, which included provisions that would amend various pension provisions of the Internal Revenue Code of 1954, including certain qualified pension, etc. plan distribution requirements, definitional questions with regard to sectioin 416 top-heavy plan requirements, and certain individual retirement account and profit-sharing and stock bonus plan provisions.

The Committee also considered various pension plan reforms in its hearings conducted on February 22 and 28, 1984, the subjects of which were a wide range of tax shelter, accounting abuses and corporate reforms. In particular, the Committee at that time heard testimony and accepted comments for the record in the matter of withdrawals from qualified pensions plans.

The Committee on Ways and Means also held a one-day hearing on October 25, 1983 (including submission of remarks for the record) concerning various aspects of the Federal income tax laws relating to qualified pension plans and individual retirement accounts and their effect upon spouses, particularly women. The primary focus of House hearings was on H.R. 2090, and 2099, the Economic Equity Act of 1984 and related, sundry legislation.

As a result of the legislative oversight activities of the Committee on Ways and Means in the foregoing subject areas, certain provisions of the Deficit Reduction Act of 1984 were enacted into law (see Public Law 98-369, July 18, 1984; 98 Stat. 494, et. seq.). Furthermore, certain aspects of the Economic Equity Act were enacted into law in Public Law 98-397, August 23, 1984 (the Retirement Equity Act of 1984, 98 Stat. 1426-1455).

On March 24, 1984, the Subcommittee on Oversight held a public hearing to examine the financial status of the single employer pension plan termination insurance program in light of the Administration's request for an increase in the premium rate for the program. This mandatory insurance program is administered by the Pension Benefit Guaranty Corporation (PBGC) pursuant to Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Testimony was received from the Pension Benefit Guaranty Corporation, the General Accounting Office and from invited and public witnesses.

Also, on November 15, 1983, the Subcommittee on Oversight held joint hearings with the Subcommittee on Labor-Management Relations of the Committee on Education and Labor, on certain issues regarding public employee pension benefit plans and provisions of the Internal Revenue Code which relate to such plans.

### Legislative Review in Public Debt Matters

During the 98th Congress, the Committee on Ways and Means conducted several hearings on the public debt limit and management, beginning May 12, 1983. On that date, the Committee considered H.R. 2990, introduced by Chairman Rostenkowski and Mr. Conable, to provide for a permanent increase in the public debt limit to $1,389 billion. The bill also increased the authority of the Treasury Department to issue long-term bonds at interest rates in excess of the 4¼ percent statutory ceiling from $110 billion to $150 billion. The distinction in prior law between the permanent and temporary debt limit was eliminated. The measure passed the House on May 18, 1983, and the Senate May 25. It was approved May 26, 1983 (P.L. 98-34).

The permanent limit on the public debt was increased again pursuant to H.J. Res. 308 which was deemed to have passed the House on June 27, 1983, under the operation of Rule XLIX of the House, following passage of the budget resolution for FY 1984 (H. Con. Res. 91). As passed by the House, H.J. Res. 308 increased the debt limit to $1,614.6 billion, effective October 1, 1983. The Senate passed H.J. Res. 308 on November 17, 1983, with amendments. A conference committee agreed to an increase in the public debt limit to $1,490 billion. The conference report was filed on November 17, 1983 and agreed to by the Senate. The House agreed on November 18, 1983 and the bill was signed into law on November 21, 1983 (P.L. 98-161).

The Committee held a hearing on May 16, 1984 and received testimony from the Department of the Treasury indicating that the limit on the public debt was about to be reached and additionally urging a further increase in authority to issue long-term bonds. H.R. 5692 was reported on May 22, 1984 increasing the debt limit by $30 billion to $1,520 billion through June 22, 1984. The bill also increased authority to issue long-term bonds by $50 billion to $200 billion and contained a number of provisions regarding Treasury Department administrative matters requested by the Department in its testimony. The bill passed the House on May 24, 1984, and the Senate on the same day with an amendment making the $30 billion increase in the debt limit permanent. The House, also on May 24, agreed to the amendment. H.R. 5692 was approved on May 25, 1984 (P.L. 98-302).

The Committee received further testimony from the Department of the Treasury on August 8, 1984 regarding the need for an increase in the debt limit.

On October 1, 1984, pursuant to the House rules, H.J. Res. 654 was deemed to have passed following House approval of the budget resolution for FY 1985 (H. Con. Res. 280). H.J. Res. 654 provided for an increase in the permanent debt limit to $1,823.8 billion. It was

passed by the Senate October 12, 1984 and approved October 13 (P.L. 98-475).

## Legislative Review of Trust Funds

### A. HIGHWAY TRUST FUND

The Committee on Ways and Means conducted a public hearing on February 23, 1984 on alternatives to the tax on use of heavy motor vehicles. Based on the testimony received at this hearing the Committee modifications to the heavy vehicle use tax and diesel fuel tax were contained in the Deficit Reduction Act of 1984 (P.L. 98-369).

The Act restructures and reduces the use tax rate. Under the Act, for vehicled or 55,000 pounds or more, the tax rate is $100, plus $22 for each 1,000 pounds or fraction thereof over 55,000 pounds. The maximum tax rate, applicable to vehicles oer 75,000 pounds is $550.

The Act increases the excise tax on diesel fuel by 6 cents a gallon to 15 cents and increases the credit or refund paid on diesel fuel used in an intercity, local or school bus. Also, the Act extends the present 4-cents-per-gallon exemption for fuels (gasoline, diesel fuel, and special motor fuels) when used in qualified taxicabs through September 30, 1985.

The Act also increases the excise tax exemptions for alcohol fuels mixtures and alcohol fuels, the income tax credit for qualified alcohol fuels and increases the duty on imported alcohol fuels. Under the Act, the excise tax exemption for gasohol is increased to 6 cents per gallon; the alcohol fuels mixture credit and alcohol fuels credit is increased to 60 cents per gallon, and the duty on imported alcohol is increased to 60 cents per gallon.

### B. AQUATIC RESOURCES TRUST FUND; LAND AND WATER CONSERVATION FUND

On June 2, 1983, the Committee on Ways and Means conducted public hearings on H.R. 2163, relating to excise taxes to fund recreational boating safety and fish restoration and management programs, and H.R. 2809, establishing a United States Fish and Wildlife Foundation. Under present law, an excise tax is imposed on the sale of certain fishing equipment by a manufacturer. Revenue accuring from the tax is authorized to be appropriated to the States to carry out sport fish restoration and management projects. Also, revenues (with certain limitations) from an excise tax on gasoline and special motor fuels used in motorboats are deposited into the National Recreational Boat Safety and Facilities Improvement Fund. Amounts above $45 million are transferred into the Land and Water Conservation Funds.

Based on the testimony received by the Committee provisions to establish a new Aquatic Resources Trust Fund and which modify the financing of the Land and Water Conservation Fund were contained in the Deficit Reduction Act of 1984 (P.L. 96-363). Under the Act, the new Trust Fund is divided into two separately financed accounts, the Sport Fish Restoration Account and the Boating Safety Account. The Act also expands and redefined the purposes for

which the new Trust Fund monies may be spent for the fish restoration and Federal boating safety programs.

## HEALTH

### A. FRAUD AND ABUSE

In May 1984, the General Accounting Office issued a report noting the need for expanded Federal authority to protect medicare and medicaid patients from physicians and other health practitioners who have lost their licenses. On September 18, 1984, the Subcommittee on Health held a hearing to receive testimony from GAO and the Inspector General of the Department of Health and Human Services and other witnesses.

The GAO testified that medicare and medicaid patients were being treated in some States by health practitioners whose licenseses had been revoked or suspended elsewhere. Both the GAO and the Inspector General recommended changes in the medicare law which would prevent further abuse.

On September 29, 1984, the Ways and Means Committee reported H.R. 5989, the Medicare and Medicaid Patient and Program Protection Act of 1984. The bill required the Secretary of HHS to exclude from medicare and certain other health programs any individual or entity convicted of a criminal offense related to the program for a minimum of 5 years. In addition, the Secretary was permitted to exclude from medicare, and could require the States to exclude from a State health program any individual whose license to provide health care had been revoked or suspended or who had otherwise lost such license.

The legislation was jointly referred to the Committee on Energy and Commerce which took no action. Thus, the legislation was not considered by the full House of Representatives during the 98th Congress.

### B. MALPRACTICE

On June 28, 1984, the Subcommittee on Health held a hearing on medical malpractice. The Subcommittee heard testimony on the nature of the problem and recommendations for resolution from academics, the medical and legal professions, insurers, hospitals and groups representing the elderly and business.

Specifically, the Subcommittee received comments on H.R. 5400, the Alternative Medical Liability Act. The bill encourages States to establish alternative medical liability laws in accordance with certain standards. The proposal would limit most malpractice recoveries to net economic losses.

The Subcommittee took the comments of the witnesses under consideration. No further action was taken on the legislation in the 98th Congress.

### C. VALUATION OF CAPITAL ASSETS UNDER MEDICARE

On December 22, 1984, the General Accounting Office issued a report on the impact of hospital mergers on medicare and medicaid payments for capital costs. The report looked at the 1981 merger of two large hospital chains and concluded that, during the first year

of acquisition, the overall cost of the acquired hospitals increased due to the acquisition by a net amount of $55 million in interest, depreciation, and home office expenses.

In September, 1983, the Inspector General of the Department of HHS issued a preliminary report showing the significant increases in medicare and medicaid capital payments as a result of the sale of both hospitals and nursing homes. The Inspector General concluded that limiting the depreciation base when facilities were sold would significantly reduce capital payments for medicare and medicaid.

The Subcommittees on Health and Oversight held a joint hearing on March 21, 1984, on the effects of changes in ownership on medicare costs. Witnesses inlcuded the Congressional Budget Office, GAO, the Inspector General, a representative of the State of New York and representatives of insurers and hospitals.

As a result of action taken by the Senate Committee on Finance, a provision was included in the Deficit Reduction Act of 1984 (P.L. 98–369) which limits the increase in valuation of capital assets upon sale for purposes of payment under the medicare and medicaid programs.

### D. MEDICARE PROSPECTIVE PAYMENT SYSTEM

The Social Security Amendments of 1983 (P.L. 98–21) established a new method of payment for medicare inpatient hospital services, known as the prospecitive payment system. The system established new incentives for hospitals to reduce their costs. Medicare will now pay a fixed price for a given service in a given area. If the hospital's actual costs are below that price, it can keep the excess. If the hospital's costs exceed the price, the hospital must bear the burden.

During the 98th Congress, a number of adjustments were made in the prospective payment system, both through law and regulation, as the Congress reviewed the impact of the system on providers and beneficiaries. The Deficit Reduction Act of 1984 (P.L. 98–369) included the establishment of rural referral centers, adjustments for hospitals in metropolitan areas that crossed census divisions, adjustments for hospitals located in areas that had been redesignated from urban to rural and other changes relating to the classification of hospitals. In addition, changes were made with respect to payments for services of nurse anesthetists and the construction of the hospital wage index.

Regulatory changes were made with respect to payments to hospitals with renal dialysis patients, attestation requirements of physicians, payments to rehabilitation units and the requirements for directors of rehabilitation units, among other things. The Committee on Ways and Means anticipates continuing oversight of the impact of the propsective payment system during the 99th Congress.

### E. PEER REVIEW ORGANIZATIONS

In the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97–248), the Congress established a program of Utilization and Quality Control Peer Review (PROs) to replace the Professional Standards

Review Organizations (PSROs). Under the new program, the Secretary of Health and Human Services was required to negotiate contracts with private review organizations in each area of the country to conduct medicare review. In addition, the organizations were permitted to contract with private employers, insurers or States to conduct peer review of non-medicare patients.

Because the Secretary of HHS did not implement the PRO program in a timely fashion, the Congress in the Social Security Amendments of 1983 (P.L. 98–21) established a deadline for the implementation of October 1, 1984 (later changed to November 15, 1984). If the program was not in effect in all areas of the country by that date, hospitals would be deprived of their medicare payments.

The Secretary did negotiate contracts with peer review organizations in all the States by the statutory deadline. The Committee on Ways and Means conducted a review of how the program was being implemented. During the 99th Congress, the Committee on Ways and Means will continue to monitor the effectiveness of PROs in carrying out their statutorily assigned tasks.

### F. FUTURE OF MEDICARE

Despite changes occurring in the health field, there is a growing awareness that the medicare program will require some basic changes during the next decade if it is to avoid bankruptcy. This realization has yet to result in a consensus about what should be done.

The Subcommittee on Health sponsored a two-day conference on the future of medicare in an attempt to begin the reform process. Included were speakers from the government, interested private agencies and individuals. This process was advanced further in early 1984 when the Advisory Council on Social Security issued a set of recommended changes in the structure and financing of medicare and explained them at a Health Subcommittee hearing.

### G. ELIMINATION OF THE OFFICE OF DIRECT REIMBURSEMENT

On September 14, 1983 the Subcommittee on Health held a hearing on an Adminstration proposal to eliminate the Office of Direct Reimbursement at the Health Care Financing Administration. For most hospitals, skilled nursing facilities and home health agencies, medicare payments for covered services to beneficiaries are made through intermediaries. Intermediaries are private insurance firms or Blue Cross plans acting as agents of the medicare program under contract with HCFA for the processing of claims. Some providers could elect to receive payments through the Federal government (the Office of Direct Reimbursement) rather than through intermediaries.

The Administration argued that the Office of Direct Reimbursement (ODR) was inefficient and expensive. Based on the data presented at the hearing, the Subcommittee felt there was insufficient evidence to support legislation to mandate that HCFA maintain ODR. The Subcommittee did, however, work with HCFA to provide an acceptable transition period for providers who had been dealing with ODR.

## Social Security

### A. OASDI FINANCING REFORM

In response to the major financing problems facing the social security cash benefit programs, the Committee on Ways and Means conducted public hearings throughout February, 1983, and then began development of H.R. 1900, which was enacted into law on April 20, 1983, as Public Law 98–21. A summary of the major provisions of this legislation follows:

### I. Provisions Affecting the Financing of the Social Security System

#### 1. EXTENSION OF COVERAGE

*A. Federal employees*

Under existing law, permanent civilian employees of the Federal Government are not covered by social security (OASDI). (Part-time temporary civilian employees and members of the Armed Forces are covered by social security.)

The act provides for coverage under social security of the following groups of Federal employees: (1) all Federal employees hired on or after Jan. 1, 1984, including those with previous periods of Federal service if the break in Federal service lasted at least 365 days; (2) legislative branch employees on the same basis, as well as current employees of the legislative branch who are not participating in the Civil Service Retirement System as of Dec. 31, 1983; (3) all Members of Congress, the President and the Vice President effective Jan. 1, 1984; (4) all sitting Federal judges, and all executive level and senior executive service political appointees, as of Jan. 1, 1984. Federal judicial salaries will be reported as wages for social security earnings tests and payroll tax purposes.

*B. Employees of nonprofit organizations*

Under previous law, participation in the social security system was optional for nonprofit organizations (charitable, religious, and educational). A nonprofit organization which elected to participate could file to withdraw from social security after it had been in the system for 8 years, and termination was effective 2 years after the end of the calendar quarter in which the notice was filed.

The act extends social security coverage on a mandatory basis to all employees of nonprofit organizations as of Jan. 1, 1984. (Terminations of coverage would not be permitted on or after Mar. 31, 1983). Nonprofit employees age 55 or older affected by this provision are deemed to be fully insured for social security benefits after acquiring a given number of quarters of coverage, according to the following sliding scale:

| *If on Jan. 1, 1984, the person is—* | *The number of quarters needed is—* |
|---|---|
| Age 60 or over | 6 |
| Age 59 | 8 |
| Age 58 | 12 |
| Age 57 | 16 |
| Age 55–56 | 20 |

### 2. TERMINATION OF COVERAGE BY STATE AND LOCAL GOVERNMENTS

Participation in social security is optional for State and local governments. Under prior law, once a government has chosen to join social security, it could withdraw, after 5 years of coverage, by providing the Federal Government with 2 years advance notice of its intent to withdraw. Governments that withdrew were not allowed to rejoin.

The act prohibits State and local governments from terminating coverage for their employees if the termination has not taken effect by the date of enactment. In addition, State and local governments which have withdrawn from the social security system would be allowed to voluntarily rejoin. Once having rejoined, the governmental entity will be precluded from terminating coverage in the future.

### 3. WINDFALL BENEFITS FOR PERSONS WITH PENSIONS FROM NONCOVERED EMPLOYMENT

The act applies a special benefit formula to workers who are eligible for a pension based wholly or in part on noncovered employment. Under the current formula, benefits are 90 percent of the first $254 of average monthly earnings, 32 percent of earnings from $254 to $1,538, and 15 percent of earnings above $1,538. The formula applicable to those with pensions from noncovered employment would substitute 40 percent for the 90 percent factor. The act also provides a guarantee that the resulting reduction in the worker's social security benefits cannot be more than one-half the amount of the noncovered pension.

This reduction is phased in over a 5-year period: 80 percent in the first year, 70 percent in the second year, 60 percent in the third year, 50 percent in the fourth year, and fully effective in the fifth year.

The following groups are exempted from the provisions:

a. all current employees newly covered by the act, i.e., those current Federal employees covered by the act, and nonprofit employees except those employees whose past employment for a nonprofit organization had been covered, but whose employment for that organization was not covered on Dec. 31, 1983;

b. those with service which was not covered until 1957;

c. those with 30 years or more of covered work; in addition, for persons with less than 30 but more than 24 years of substantial social security employment, the 90 percent factor in the benefits formula would be reduced by 10 percentage points for each year below 30 years of covered employment; and

d. those with railroad retirement pensions.

The provision is effective on Jan. 1, 1984, for retired or disabled workers who first become eligible for a noncovered pension and for social security after 1985.

### 4. DELAY COST-OF-LIVING ADJUSTMENTS

Under prior law, social security benefits were adjusted automatically every June (July check) to reflect increases in the Consumer Price Index. No cost-of-living increase is provided in any year in

which the increase in the CPI is less than 3 percent. In addition, the medicare monthly premium for part B physician coverage encreased each July 1. (For those people receiving social security cash benefits, the premium is deducted from their checks.)

The act delays the June 1983 cost-of-living adjustment until December (January 1984 check), and provides all subsequent cost-of-living adjustments in December (January checks). For the December 1983 adjustment only, the 3-percent trigger is waived. This section also provides a corresponding delay in a 1982 Reconciliation Act provision to round down certain veterans' pensions.

The act also correspondingly postpones the effective date of increases in medicare premiums. For the 6-month period from July 1, 1983, to Jan. 1, 1984, the general revenue contribution would replace the lost premium revenue.

### 5. TAXATION OF SOCIAL SECURITY (OASDI) BENEFITS FOR HIGHER-INCOME PERSONS

The act provides that, beginning in 1984, a portion of social security and tier I railroad retirement benefits will be included in taxable income for taxpayers whose adjusted gross income combined with 50 percent of their benefits exceeds a base amount. The base amount is $25,000 for an individual, $32,000 for a married couple filing a joint return and zero for married persons filing separate returns. Interest on tax-exempt bonds will be added to adjusted gross income for the purpose of determining whether an individual's income exceeds the base amount above which a portion of benefits would be subject to tax. The amount of benefits that can be included in taxable income is the lesser of one-half of benefits or one-half of the excess of the taxpayer's combined income (AGI + one-half of benefits) over the base amount.

The proceeds from the taxation of benefits, as estimated by the Treasury Department, will be transferred to the appropriate trust funds at first of quarter. An annual report from the Secretary of the Treasury concerning the transfers is required.

### 6. 1984–90 SOCIAL SECURITY TAX RATES AND 1984 CREDIT

#### *A. FICA tax rates*

Several increases in payroll tax rates were scheduled to take effect between 1984 and 1990.

The act advances the payroll tax increase scheduled for 1985 to 1984 and part of the increase scheduled for 1990 to 1988 as indicated below:

| | Employer-employee rate (each) | | |
|---|---|---|---|
| | OASDI | HI | OASDI–HI |
| 1984 | 5.70 | 1.30 | 7.00 |
| 1985 | 5.70 | 1.35 | 7.05 |
| 1986 | 5.70 | 1.45 | 7.15 |
| 1987 | 5.70 | 1.45 | 7.15 |
| 1988 | 6.06 | 1.45 | 7.51 |
| 1989 | 6.06 | 1.45 | 7.51 |
| 1990 | 6.20 | 1.45 | 7.65 |

*B. Tax credit for 1984 employee FICA taxes*

The act provides a credit of 0.3 percent of wages against 1984 employee FICA taxes to reduce the net FICA rate to 6.70 percent. Appropriations to trust funds will be based on a 7.00 percent rate.

*C. Tier I railroad retirement taxes*

The rates of the tier I taxes are the same as the rates of the corresponding FICA taxes. The act makes conforming changes in tier I railroad retirement tax rates and the credit against 1984 employee taxes will be allowed against employee railroad taxes.

### 7. TAX ON SELF-EMPLOYMENT INCOME

The Self-Employment Contributions Act (SECA) imposes two taxes (OASDI and HI) on self-employed individuals. Currently, self-employed persons pay an OASDI tax at a rate approximately equal to 75 percent of the combined employer-employee rate and an HI tax at a rate that is 50 percent of the combined employer-employee rate.

No deduction or credit is available for SECA taxes.

The act provides that, beginning in 1984, the OASDHI rates for self-employed persons will be equal to the combined employer-employee OASDHI rate. Self-employed persons will be allowed a credit (comparable to the credit allowed the employers against the FICA tax) against the SECA tax as follows: 1984, 2.7 percent; 1985, 2.3 percent; and 1986–89, 2.0 percent. Effective in 1990 and thereafter, the credit will terminate and be replaced with a system designed to achieve parity between employees and the self-employed.

Appropriations to the trust funds will be based on the full SECA tax rates without regard to the credit allowed against such taxes.

### 8. CREDIT FOR THE ELDERLY AND DISABILITY INCOME EXCLUSION

*A. Credit for the elderly*

Under prior law, individuals age 65 or over, or under 65 and with income from a public retirement system, were eligible for an income tax credit equal to 15 percent of a base amount.

The act provides that individuals under age 65 are eligible for a tax credit only if they retired with a permanent and total disability and have disability income from a public or private employer on account of that disability. The act also makes other changes in the base amount.

*B. Disability income exclusion*

Amounts received under an employer's disability income plan generally are includible in gross income for income tax purposes to the extent attributable to employer contributions. However, permanently and totally disabled individuals who have retired on disability and are under 65 could exclude such income within certain limits under prior law.

The act repeals the disability income exclusion.

### 9. REALLOCATION OF OASI AND DI TRUST FUNDS

The act allocates the OASDI tax so that both the OASI and DI trust funds will have approximately the same ratios.

### 10. BENEFITS FOR CERTAIN WIDOWS, DIVORCED, AND DISABLED WOMEN

The act revises eligibility requirements and the computation formula for certain types of dependents and survivor benefits:

a. Continues benefits based on a former spouse's earnings for divorced and disabled surviving spouses who remarry;

b. Allows divorced spouses who have attained retirement age to begin drawing social security benefits based on the earnings of their former spouse, even if their former spouse has not yet retired and claimed benefits;

c. Changes the formula by which benefits are computed for certain widows and widowers who claim benefits based on the earnings of their deceased spouse; generally, this change would raise benefit levels in cases where a substantial period of time elapses between the death of one spouse and the time the surviving spouse retires and claims benefits; and

d. Increases benefits for disabled widows and widowers who retire before age 60 and who collect benefits based on the earnings of their deceased spouse.

### 11. STABLIZER

The act provides that, beginning in 1985, if the fund ratio of the combined OASDI trust funds as of the beginning of a year is less than 15 percent, the automatic cost-of-living adjustment (COLA) would be based on the lower of the CPI increase or the increase in average wages. Beginning in 1989 the stabilizer would take effect if the trust fund ratio falls below 20 percent. Subsequently, when the balance in the trust funds has risen to at least 32 percent of estimated annual outlays, "catch-up" benefit payments would be made during the following year, as supplements to monthly benefits otherwise payable, to the extent necessary to increase overall benefit levels in order to make up for any losses in inflation protection that result from basing COLA's on wages rather than prices. Such payments would be made only to the extent that sufficient funds are available over those needed to maintain a fund ratio of 32.0 percent.

### 12. PROCEDURES TO ASSURE CONTINUED BENEFIT PAYMENTS (FAIL-SAFE)

Social security benefits are financed by a payroll tax fixed in the law. While benefits are paid out within the first 5 days of each month, payroll tax revenues are estimated daily by the Treasury, and credited to each trust fund account each day.

Interfund borrowing among the three funds was authorized during 1982, but this authority terminated at the end of the year.

The act provides for a revision of accounting procedures under which the Treasury would credit to the OASDI trust funds, at the beginning of each month the amount of payroll tax revenues estimated to be received during the month. These amounts would be invested by the trust funds as all other trust fund assets are invested; interest will also be paid by the trust funds on amounts transferred to the trust funds in advance of procedures in effect on Jan. 1, 1983. The provision is effective on the first day of the month following enactment.

The act also authorize borrowing between the OASI, DI, and HI funds for calendar years 1983–87, with provisions for the repayment to the lending fund(s) of all such loans.

The act also requires the Board of Trustees to report immediately to the Congress whenever it is of the opinion that the amount of any of the trust funds may become unduly small. The Trustees are required to recommend a specific legislative plan to adjust the inflow and outgo of funds to remedy this shortfall.

### 13. DELAYED RETIREMENT CREDIT

Under prior law, persons who delay retiring—and claiming social security benefits—beyond age 65 receive increases in their benefits amounting to 3 percent per year for each year they delayed retirement up to age 72.

The act gradually increases the delayed retirement credit from 3 percent to 8 percent per year for persons who attain age 65 between 1990 and 2008, and lowers the age after which the delayed retirement credit will no longer be given from age 72 to 70.

### 14. REIMBURSEMENT TO TRUST FUNDS FOR MILITARY WAGE CREDITS AND UNCASHED OASDI CHECKS

*A. Military wage credits*

Gratuitous military wage credits are provided to persons who served in the military after Sept. 16, 1940. The cost of the additional benefits and the administrative expenses arising from these noncontributory wage credits are borne by the General Fund on a retroactive reimbursement basis (i.e., the costs are reimbursed only after benefits have been paid).

The act provides for a lump-sum payment to the OASDI trust funds from the General Fund for: (i) The present value of the estimated additional benefits arising from the gratuitous military service wage credits for service before 1957; (ii) the amount of the combined employer-employee OASDI taxes on the gratuitous military service wage credits for service after 1956 and before 1984. In addition, the HI trust fund would be credited with the combined employer-employee HI taxes on gratuitous military wage credits for service after 1965 and before 1983. (In the future, the trust funds will be reimbursed on a current basis for such employer-employee taxes on such wage credits for service after 1982.)

*B. Uncashed OASDI checks*

Under prior law, the value of OASDI benefit checks which were not cashed remained in the General Fund of the Treasury.

The act provides for a lump-sum payment to the OASDI trust funds from the General Fund representing this amount of uncashed benefit checks which have been issued in the past plus appropriate amounts of interest. In addition, the act requires the Treasury Department to credit the trust funds on a regular basis with the value of all OASDI benefit checks which has not been negotiated for a period of 6 months.

## II. Additional Provivisions Relating to Long-Term Financing of the Social Security System

Currently, the normal retirement age (i.e., the age at which full retirement benefits can be received) is age 65. Early retirement benefits are available at age 62 at a rate of 80 percent of the full benefit. Medicare and SSI benefits are also available at age 65.

Social security beneficiaries under age 70 who work and have earnings are subject to a $1 reduction in benefits for every $2 of earnings, when their earnings exceed certain exempt amounts.

The act—

(1) Raises the normal retirement age to 67 in two steps.

(A) Raises retirement age to 66 by increasing the age for full benefits by 2 months a year for 6 years beginning in the year 2000 so that the provision would be fully effective beginning with those attaining age 62 in 2005 (66 in 2009).

(B) Raises retirement age from 66 to 67 by increasing the age for full benefits by 2 months a year for 6 years beginning in 2017 so that the provision would be fully effective beginning with those attaining age 62 in 2022 (67 in 2027).

(2) Maintains age 62 benefits at an ultimate rate of 70 percent of full benefits (after age for full retirement is changed to 67). No changes would be made in medicare or SSI benefits.

(3) Requires the Secretary, by Jan. 1, 1986, to conduct and submit with recommendations to Congress a study of the implications of the change in retirement age for individuals in physically demanding employment.

(4) Reduces the earnings test offset, effective beginning in 1990, for those age 65 and older to $1 for every $3 earned over the annual exempt amount.

## III. Miscellaneous and Technical Provisions

Title III of the act contains several miscellaneous and technical provisions. The major provisions are the following:

### DEFERRED COMPENSATION

The act provides rules for the treatment under FICA and FUTA of various forms of deferred compensation and certain other fringe benefits. First, employer contributions to cash-or-deferred arrangements (code sec. 401(k)) will be subject to FICA and FUTA. Second, employer contributions to tax-sheltered annuities for employees of educational and nonprofit organizations (sec. 403(b)) will be subject

to FICA and FUTA if made by reason of a salary reduction agreement. Third, nonqualified deferred compensation will be included in the FICA and FUTA bases when the services are performed or, if later, when there is a lapse of a substantial risk of forfeiture of the employee's right to those amounts. Fourth, exclusions from FICA and FUTA are allowed for certain meals and lodging provided by the employer, and the act provides that the determination in regulations of whether amounts are subject to FICA and FUTA is to be made without regard to whether these amounts are subject to income tax withholding.

#### ELIMINATION OF GENDER BASED DISTINCTIONS

The Social Security Act contains several provisions treating male and female beneficiaries differently solely on the basis of gender. The act contain 8 sections eliminating these distinctions in the law, most of which have already been eliminated operationally under court order.

#### PUBLIC PENSION OFFSET

Under a provision enacted in 1977, people becoming eligible for a public pension on their own account after November 1982, would generally have the amount of any social security dependents' or survivors' benefits reduced dollar-for-dollar on account of that public pension.

Under a provision adopted in 1982, persons who become eligible for a public pension after November 1982 and before June 1983 who meet a "one-half support" dependency test are exempt from the offset.

The act provides that for persons who become eligible for a public pension after June 1983, the amount of the public pension used for purposes of the offset against social security benefits will be two-thirds of the public pension.

### B. DISABILITY BENEFIT REFORM

Beginning in 1981, the Social Security Administration began an accelerated implementation of the requirement enacted in 1980. As a result, almost 400,000 disability beneficiaries were informed that they were no longer eligible for benefits, although almost half that number were restored to the benefit rolls through the appeals process. By 1983, many State governments were beginning to protest the implementation of these reviews, and hearings by the Committee on Ways and Means in June, 1983 revealed a strong need for legislation.

As a result of the widespread dissatisfaction with the way in which reviews were being conducted, the Committee on Ways and Means developed legislation, H.R. 3755, which provides clear standards of review for examining the eligibility of current beneficiaries, as well as other reforms. This legislation, which was signed into law on October 9, 1984 as P.L. 98-460, is summarized below.

*Standards for evaluation of disability*

The bill requires the continuation of benefits for those individuals whose conditions have not medically improved to the point of ability to perform substantial gainful activity (SGA) with the following exceptions:

(a) If new evidence shows the beneficiary has benefited from advances in medical therapy or technology, or from vocational therapy to the point of being able to perform SGA;

(b) If new evidence, including new diagnostic or evaluation techniques not available or used at the original determination, shows the impairment to be less severe than originally thought;

(c) If the person is currently working, or if the original determination either was clearly erroneous or was fraudulently obtained.

The bill provides for a study to be conducted by the Secretary of Health and Human Services in conjunction with the National Academy of Sciences on the use of subjective evidence of pain in determinations of disability. The bill also provides that determination of disability must take into account the combined effect of all of the applicant's impairments, even if none of the impairments alone would qualify the person for benefits.

*Disability determination process*

The legislation provides for a number of changes in the disability administrative process: first, there will be a moratorium on reviews of beneficiaries with mental impairments until the Secretary revises the mental impairment criteria, to be published no later than 9 months after enactment; second, the Secretary must implement, no later than Jan. 1, 1985, demonstration projects on holding face-to-face evidentiary interviews at the State agency for cases where benefits are to be terminated because of medical recovery (the reconsideration level of review would be abolished for these cases), and for such interviews for all new disability applicants, in at least five States, beginning no later than Jan. 1, 1984; third, the bill provides on a permanent basis that benefit payments will be continued while the beneficiary is appealing termination of benefits through the administrative law judge hearing level.

*Other miscellaneous provisions*

The law requires the Social Security Administration to promulgate policy according to the notice and comment requirements of sec. 553 of the Administrative Procedure Act; the exception in that act allowing informal policy statements and interpretive rulings to be issued without formal notice and comment will continue to apply to SSA. The conference report on the legislation also urges SSA either to apply the decisions of Federal circuit courts of appeal that have precedential value to all determinations within the jurisdiction of the circuit court, or to appeal the decision to the Supreme Court.

## Public Assistance and Unemployment Compensation

The Subcommittee on Public Assistance and Unemployment Compensation has legislative and oversight responsibility over the following programs under the Social Security Act: (1) Aid to Fami-

lies with Dependent Children (AFDC); (2) Child Support Enforcement (CSE); (3) Supplemental Security Income (SSI); (4) Social Services (Title XX); (5) Child Welfare, Foster Care and Adoption Assistance; (6) Unemployment Compensation (UC); and (7) Railroad Unemployment Compensation. In addition, the Subcommittee has legislative responsibility for the Federal Unemployment Tax Act (FUTA) under Chapter 23 of the Internal Revenue Code.

In the 98th Congress, the Subcommittee pursued its legislative and oversight responsibilities pertaining to the public assistance and unemployment compensation programs under its jurisdiction and considered President Reagan's budget reduction proposals. Oversight activities were almost always related to specific legislative and/or budget reduction proposals. In the following sections, the hearings held by the Subcommittee and the legislative action taken are briefly described.

### A. AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDA)

*Hearings.*—On July 18, 1983, the Subcommittee held a hearing on AFDC, social service bills, and related oversight issues. The purpose of this hearing was to receive testimony on the President Reagan's proposed AFDC reductions and other suggested improvements in the program. (Serial #98-37)

On November 18, 1983, in Atlanta, Georgia the Subcommittee held a hearing on welfare, social services and unemployment issues. The hearing focused on the impact of the Federal budget cuts on recipients of these programs. (Serial #98-58)

On May 2, 1984 the Subcommittee held a hearing on the GAO analysis of the 1981 AFDC reductions. The hearing focused on the GAO study and other research conducted to assess the affect of the Omnibus Budget Reconciliation Act on AFDC recipients. (Serial #98-98-101)

On August 9, 1984, the Subcommittee held a joint hearing with the subcommittee on Oversight to examine the reasons for the increasing poverty rate. The U.S. Census Bureau briefed the Subcommittees on the poverty rate statistics; other witnesses discussed the implications of these trends. (Serial #98-98-108)

On September 20, 1984 the Subcommittee, in conjunction with the Oversight Subcommittee, held a second hearing on poverty. Office of Management and Budget director David Stockman and other witnesses discussed the reasons for the continuing increase in the poverty rate. (Serial #98-108)

On October 3, 1984, the Subcommittee held a hearing on the AFDC quality control system. The focus of the hearing was H.R. 6295, a comprehensive quality control reform bill. (Serial #98-104)

*Legislation.* In June of 1984, Congress enacted H.R. 4170, the Deficit Reduction Act of 1984 (P.L. 98-369). The Act incudes 22 AFDC amendments which are summarized below:

*1. Gross income limitation.*—Under prior law, eligibility for AFDC is limited to families with gross incomes at or below 150 percent of the State standard need. The Act increases the gross income limitation to 185 percent of the State standard of need.

*2. Work expense deduction.*—Under prior law, States are required to disregard the first $75 of monthly earnings for full-time work ex-

penses; a lower deduction must be established for part-time workers. The Act requires States to disregard the first $75 monthly for full and part-time workers.

*3. Continuation of $30 disregard.*—Under prior law, the $30 plus one-third of remaining earnings disregard is limited to four months. The Act retains the four month limit on the one-third disregard but extends the 430 disregard for an additional eight months for a total of twelve months.

*4. Work transition status.*—Under prior law, a family who loses AFDC eligibility due to the four month limit on the earnings disregard, simultaneously loses categorical eligibility for Medicaid. The Act provides that families who lose AFDC because of the termination of the earnings disregard will be eligible for nine months of Medicaid coverage. At State option, an additional six months of Medicaid coverage can be provided. In addition, families who lost AFDC eligibility prior to enactment of the work transition will also be eligible for nine months of Medicaid coverage. At State option, an additional six months of Medicaid coverage can be provided. In addition, families who lost AFDC eligibility prior to enactment of the work transition will also be eligible for Medicaid under certain specified circumstances.

*5. Clarification of earned income provisions.*—The Act clarifies that the term "earned income" as used in the AFDC program means the gross amount of earnings, prior to the taking of payroll or other deductions.

*6. Burial plots, funeral agreements and certain property.*—Under prior law, burial plots and funeral agreements are counted toward the $1,000 asset limit. The Act exempts from the AFDC resources limitation, burial plots and funeral agreements. An AFDC policy on real property that is similar to SSI policy is also established.

*7. Federal matching for Community Work Experience Program (CWEP) expenses.*—Under prior law, States must reimburse a CWEP participant for necessary transportation and other expenses. Federal matching for this reimbursement is, by regulation, limited to $25 per month. The Act requires States to reimburse a CWEP participant for costs incurred if the State is unable to provide directly any transportation or day care services. Reimbursement of day care expenses is limited to those determined by the State to be reasonable, necessary and cost effective up to $160 per month per child.

*8. Retrospective budgeting and monthly reporting.*—Under prior law, monthly reporting and retrospective budgeting are required for all AFDC cases; however, the Secretary of Health and Human Services may waive the monthly reporting requirement if it is not cost effective to require the report. The Act mandates retrospective budgeting for cases filing a monthly report. Monthly reporting is required when cost effective; cases with earned income and recent work history must report monthly.

*9. Earned income tax credit (EITC).*—Under prior law, States must assume that an individual is receiving the earned income tax credit on an advance basis regardless of when or if it is received. The Act requires States to count the EITC only when actually received.

*10. Demonstrations of one-stop service delivery.*—The Act authorizes from 3 to 5 Federally assisted demonstration projects designed to test the effectiveness and efficiency of integrating the delivery of human services.

*11. Work requirements for pregnant women.*—The Act adds to those who are exempt from work registration, any woman who is in the third trimester of pregnancy.

*12. Recalculation of lump sum income.*—Under prior law, States may only recalculate ineligibility due to receipt of lump sum income if a life threatening circumstance occurs. The Act allows States to recalculate the ineligibility period under other specified circumstances. Ineligibility may be recalculated if: (1) an event occurs which would have changed the amount of AFDC paid; (2) the income becomes unavailable for reasons beyond the family's control; and/or (3) the family incurs, becomes responsible for and pays medical bills which offset the lump sum income.

*13. Overpayment recoupment.*—Under prior law, States must attempt to recover all benefit overpayments. The Act permits States to waive overpayment recovery when it is not cost effective. States will be permitted to automatically waive overpayments of less than $35. Larger overpayments must be collected unless the State determines, after attempting to collect the overpayment, that the cost to collect would exceed the amount owed.

*14. Protective payments.*—Under prior law, States are required to make protective payments to a third party when a parent on AFDC fails to meet certain statutory procedural requirements. The Act permits States to make the payment to the parent if, after all reasonable efforts have been made, a suitable protective payee cannot be found.

*15. Eligibility requirements for aliens.*—Under prior law, the income of an individual who sponsors a non-refugee alien is deemed to be available to the alien for three years after entry into the United States. The Act establishes a similar policy for aliens who are sponsored by organizations or agencies.

*16. Fugitive felons.*—The Act permits States to disclose the current address of an AFDC recipient if a law enforcement agency provides the correct social security number and demonstrates that the recipient is a fugitive felon.

*17. Payment schedule for back claims.*—The Act establishes a payment schedule for court-ordered reimbursements and certain other back claims owed by the Federal government to the States that have been allowed or are pending.

*18. Work supplementation program.*—The Act modifies the existing work supplementation program to provide additional flexibility to States in operating grant diversion programs in which all or part of the AFDC grant can be used to subsidize a job.

*19. Disregard of in-kind income.*—The Act extends, until October 1, 1987, the disregard of certain in-kind assistance provided on the basis of need.

*20. Standard filing unit/child support payments.*—There was no requirement in prior law that parents and all siblings be included in the AFDC unit. The Act requires States to include in the filing unit the parents and all minor siblings living with a dependent

child who applies for or receives AFDC. In addition, a monthly disregard of $50 of child support received by a family is established.

*21. CWEP work for Federal agencies.*—The Act permits Federal agencies or offices to serve as community work experience program (CWEP) sites under the same requirements as apply to other sites.

*22. Earned income of full-time students.*—For purposes of applying the gross income limitation, the Act allows States to disregard the income of an AFDC child who is a full-time student.

### B. CHILD SUPPORT ENFORCEMENT (CSE)

*Hearings.*—On July 14, 1983 the Subcommittee held a hearing on the child support enforcement program. The hearing focused on several bills designed to improve the effectiveness of the child support enforcement program. These included H.R. 926, H.R. 2374, and H.R. 3354. (Serial # 98-41)

*Legislation.*—In November 1983, the House of Representatives adopted H.R. 4325, the Child Support Enforcement Amendments, which had been developed by the Subcommittee and approved by the Ways and Means Committee. In April 1984, the Senate adopted its child support reform measure and in August 1984, the amendments were signed into law. The new law strengthens the child support enforcement and paternity establishment program. It requires States to implement effective enforcement and provides incentives to the States to make available services to both AFDC and non-AFDC families. The main provisions of the Child Support Enforcement Amendments of 1984 (P.L. 98-378) are summarized below:

*1. Improved child support enforcement through requiring State laws and procedures.*—States are required to enact laws establishing the following procedures with respect to their IV-D cases:

A. Mandatory wage withholding for all IV-D families (AFDC and non-AFDC) if support payments are delinquent in an amount equal to 1 month's support. States must also allow absent parents to request withholding at an earlier date.

B. Imposing liens against real and personal property for amounts of overdue support.

C. Withholding of State tax refunds payable to a parent of a child receiving IV-D services, if the parent is delinquent in support payments.

D. Making available information regarding the amount of overdue support owed by an absent parent, to any consumer credit bureau, upon request of such organization.

E. Requiring individuals who have demonstrated a pattern of delinquent payments to post a bond, or give some other guarantee to secure payment of overdue support.

F. Establishing expedited processes within the State judicial system or under administrative processes for obtaining and enforcing child support orders, and, at the option of the State, for determining paternity.

G. Notifying each AFDC recipient at least once each year of the amount of child support collected on behalf of that recipient.

H. Permitting the establishment of paternity until a child's 18th birthday.

I. At the option of the State, providing that child support payments must be made through the agency that administers the State's income withholding sysem if either the custodial or noncustodial parent requests that they be made in this manner.

*2. Federal matching of administrative costs.*—The Federal matching share is gradually reduced from 70 percent as follows: 68 percent in fiscal years 1988 and 1989, and 66 percent in fiscal year 1990 and each year thereafter.

*3. Federal incentive payments.*—The prior incentive formula which gave States 12 percent of their AFDC collections (paid for out of the Federl share of the collections) is replaced with a new formula that is designed to encourage States to develop programs that emphasize collections on behalf of both AFDC and non-AFDC families, and to improve program cost effectiveness. The basic incentive payment will be equal to 6 percent of the State's AFDC collections, and 6 percent of its non-AFDC collections. States may qualify for higher incentive payments, up to a maximum of 10 percent of collections, if their AFDC or non-AFDC collections exceed combined administrative costs for both AFDC and non-AFDC components of the program.

The total dollar amount of incentives paid for non-AFDC families may not exceed the amount of the State's incentive payment for AFDC collections for fiscal years 1986 and 1987. However, thereafter the incentive paid for non-AFDC collections will be capped at an amount equal to 105 percent of the incentive for AFDC collections in fiscal year 1988, 110 percent in fiscal year 1989, and 115 percent in fiscal year 1990 and any fiscal year thereafter.

*4. Matching for automated management systems used in income withholding and other procedures.*—The Act specifies that the 90 percent Federal matching rate that is currently available to States that elect to establish an automatic data processing and information retrieval system may be used, at the option of the State, for the development and improvement of the income withholding and other procedures required in the bill through the monitoring of child support payments, the maintenance of accurate records regarding the payment of child support, and the provision of prompt notice to appropriate officials with respect to any arrearages that occur. Also, the Act specifies that the 90 percent matching is available to pay for the acquisition of computer hardware.

*5. Fees for services to non-AFDC families.*—States will be required to charge an application fee for non-AFDC cases not to exceed $25. The amount of the maximum allowable fee may be adjusted periodically by the Secretary to reflect changes in administrative costs. The State may charge the fee against the custodial parent, or pay the fee out of State funds, or it may recover the fee from the noncustodial parent.

In addition, at the option of the State, a late payment fee equal to between 3 and 6 percent of the amount of overdue support may be charged to the noncustodial parents of AFDC and non-AFDC families. The State may not take any action which would have the effect of reducing the amount of support paid to the child and will collect the fee only after the full amount of the support has been paid to the child. The late payment fee provision is effective upon enactment.

*6. Continuation of support enforcement for AFDC recipients whose benefits are being terminated.*—States must provide that families whose eligibility for AFDC is terminated due to the receipt of (or an increase in) child support payments will be automatically transferred from AFDC to non-AFDC status under the IV-D program, without requiring application for IV-D services or payment of a fee.

*7. Special project grants to promote improvement in interstate enforcement.*—The Secretary is authorized to make demonstration grants to States which propose to undertake new or innovative methods of support collection in interstate cases. The authorization is $7 million in FY 1985, $12 million in FY 1986, and $15 million in FY 1987 and years thereafter.

*8. Periodic review of State programs; modification of penalty.*—The Director of the Federal Office of Child Support Enforcement is required to conduct audits at least every three years to determine whether the standards and requirements prescribed by law and regulations have been met. Under the penalty provision, a State's AFDC matching funds must be reduced by an amount equal to at least 1 but no more than 2 percent for the first failure to comply substantially with the standards and requirements, at least 2 but no more than 3 percent for the second failure, and at least 3 but no more than 5 percent of the third and any subsequent consecutive failures.

*9. Extension of sec. 1115 demonstration authority to the child support program.*—The sec. 1115 demonstration authority is expanded to include the child support enforcement program under specified conditions.

*10. Child support enforcement for certain children in foster care.*—State child support agencies are required to undertake child support collections on behalf of children receiving foster care maintenance payments under title IV-E, if an assignment of rights to support to the State has been secured by the foster care agency. In addition, foster care agencies are required to take steps, where appropriate, to secure an assignment to the State or any rights to support on behalf of a child receiving foster care maintenance payments under the title IV-E foster care program.

*11. Collection of spousal support.*—Child support enforcement services must include the enforcement of spousal support, but only if a support obligation has been established with respect to the spouse, the child and spouse are living in the same household, and child support is being collected along with spousal support.

*12. Modification in content of annual report by the Secretary.*—The present annual report information requirements are expanded to include data needed to evaluate State programs.

*13. Requirement to publicize the availability of child support services.*—States must frequently publicize, through public service announcements, the availability of child support enforcement services, together with information as to the application fee for such services and a telephone number or postal address to be used to obtain additional information.

*14. State commissions on child support.*—The Governor of each State is required to appoint a State Commission on Child Support. The Commission must include representation from all aspects of

the child support system including custodial and non-custodial parents, the IV–D agency, the judiciary, the Governor, the legislature, child welfare and social services agencies, and others.

Each State commission is to examine the functioning of the State child support system with regard to securing support and parental involvement for both AFDC and non-AFDC children, including but not limited to such specific problems as: (1) visitation; (2) establishment of appropriate objective standards for support; (3) enforcement of interstate obligations; and (4) additional Federal and State legislation needed to obtain support for all children.

*15. Requirement to include medical support as part of any child support order.*—The Secretary of Health and Human Service is required to issue regulations to require State agencies to petition to include medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. The regulations must also provide for improved information exchange between the State IV–D agencies and the medicaid agencies with respect to the availability of health insurance coverage.

*16. Increased availability of Federal parent locator services to State agencies.*—The prior law requirement that the States exhaust all State child support locator resources before they request the assistance of the Federal Parent Locator Service is repealed.

*17. Extension of medicaid eligibility when support collection results in termination of AFDC eligibility.*—If a family loses AFDC eligibility as the result (wholly or partly) of increased collection of support payments under the IV–D program, the State must continue to provide medicaid benefits for 4 calendar months beginning with the month of ineligibility. (The family must have received AFDC in at least three of the six months immediately preceding the month of ineligibility.)

*18. Guidelines for determining support obligations.*—Each State must develop guidelines to be considered in determining support obligations.

*19. Availability of social security numbers for purposes of child support enforcement.*—The absent parent's social security number may be disclosed to child support agencies both through the Federal Parent Locator Service and by the IRS.

*20. Collection of overdue support from Federal tax refunds.*—Current law requires the Secretary of the Treasury, upon receiving notice from a State child support agency that an individual owes past due support which has been assigned to the State as a condition of AFDC eligibility, to withhold from any tax refunds due that individual an amount equal to any past due support. The Act extends this requirement to provide for withholding of refunds on behalf of non-AFDC families, under specified conditions.

*21. Wisconsin child support initiative.*—The Secretary of HHS is required to grant waivers to the State of Wisconsin to allow it to implement its proposed child support initiative in all or parts of the State as a replacement for the AFDC and child support programs. The State must meet specified conditions and give specific guarantees with respect to the financial well-being of the children involved.

*22. Sense of the Congress that State and local governments should focus on the problems of child custody, child support, and related domestic issues.*—The Act incorporates the language of S. Con. Res. 84 urging State and local governments to focus on the vital issues of child support, child custody, visitation rights, and other related domestic issues that are within the jurisdictions of such governments.

### C. SUPPLEMENTAL SECURITY INCOME (SSI)

*Hearings.*—On February 9, 1983, the Subcommittee held a hearing at which members of the National Commission on Social Security Reform and the Administration were invited to appear before the Subcommittee to address those elements in the Commission's report that could have an impact on the Supplemental Security Income (SSI) program.

Members of the National Commission on Social Security Reform were asked to address (1) the intended linkage, if any, between the proposed 6-month delay in the automatic cost-of-living adjustment in OASDI benefits and the automatic cost-of-living adjustment in SSI benefits, and (2) the Commission's proposal to increase the current SSI $20 monthly income disregard to $50. Administration witnesses, in addition to commenting on provisions in the Commission's report that affect the SSI program, were asked to address the Administration's proposal to delay for 6 months the automatic cost-of-living adjustment in SSI benefits. (Hearing prints "Elements in the Report of the National Commission on Social Security Reform Affecting SSI Recipients"—Serial 98-7.)

On June 6, 1983, the Subcommittee held a field hearing in Hayward, California on SSI disability issues. (Hearing prints "SSI Disability Issues"—Serial 98-24.)

On August 3, 1983, the Subcommittee held a hearing for the purpose of receiving testimony from invited witnesses on legislation that would have made permanent the temporary provisions of law that provides continued benefits for the working disabled who are able to work in spite of their disabilities (Section 1619). Invited witnesses were also invited to comment on specific provisions related to SSI disability benefits that they would recommend be included in the Disability Benefits Reform bill that the Social Security Subcommittee was marking up at that time. (Hearing print "Supplemental Security Income Legislation"—Serial 98-44.)

On May 9, 1984, the Subcommittee held a hearing on H.R. 5341, the "SSI Equitable Improvements and Reform Amendments of 1984."

### LEGISLATION

#### SSI AMENDMENTS ENACTED AS PART OF THE SOCIAL SECURITY ACT AMENDMENTS OF 1983 (PUBLIC LAW 98-21)

*1. Increases in Federal Benefit Standard.*—The act includes provisions to increase the Federal SSI benefit standard by $20 per month for individuals and $30 per month for couples, effective July 1, 1983.

The Federal SSI cost-of-living adjustment (COLA) is delayed from July 1983 to January 1984, and the current linkage between the OASDI and SSI COLA is maintained. Federal SSI benefits will be adjusted in January 1984, and every January thereafter, by the same percentage as OASDI benefits except that the provision to pay the lower of the increase in wages or prices, which would be applicable to OASDI benefit increases beginning in 1988, would not apply to SSI.

*2. Adjustment in Federal Pass-Through.*—The SSI pass-through law is amended by the act to provide that in order to meet the "payment level" pass-through requirement, a State could not reduce its SSI supplemental payment levels below the amount that would provide SSI recipients with an increase in benefits equal to the amount that Federal SSI benefits would be increased in July 1983 under the prior law's COLA provisions. A State can continue to comply with Federal pass-through law by meeting the present "aggregate amount" requirement. In other words, as under prior law, a State is not required to spend more in total for State SSI supplemental payments than the State spent in the previous 12-month period.

*3. Disregard of Emergency and Other In-Kind Assistance.*—The act includes a provision under which, until Sept. 30, 1984, emergency and other in-kind assistance provided by a private nonprofit organization to an aged, blind or disabled individual, would be disregarded under the SSI program, if the State determines that such assistance was provided on the basis of need. The act also provides explicit authority for States, at their option, to disregard such assistance under their AFDC program.

*4. Payment of SSI to Temporary Residents of Public Emergency Shelters.*—Aged, blind, or disabled individuals who are residents of private emergency shelters are eligible for SSI. However, such residents of public shelters cannot receive SSI because with certain exceptions, residents of public institutions are not eligible for SSI. The act includes a provision under which aged, blind, or disabled individuals who are temporary residents of public emergency shelters could receive SSI payments for a period of up to 3 months during any 12-month period.

*5. Notification Regarding SSI.*—The act provides that prior to July 1, 1984, the Secretary of Health and Human Services is required to notify, on a one-time basis, all elderly OASDI beneficiaries, who are potentially eligible, of the availability of SSI and encourage them to contact the district offices of the Social Security Administration. In addition, the provision requires that the same information be included with the notification to OASDI beneficiaries of upcoming eligibility for supplemental medical insurance.

### SSI Amendments Enacted as Part of the Deficit Reduction Act of 1984 (P.L. 98-369)

*1. Increase in dollar limitations under SSI assets test.*—The Act increases the countable assets limit under the SSI program by $100 a year for an individual and $150 a year for a couple, beginning in calendar year 1985, and each year through calendar year 1989. The current assets limit is $1,500 for an individual and $2,250 for a

couple. The limit would be $2,000 for an individual and $3,000 for a couple in 1989 and thereafter.

*2. Limitation recoupment rate in case of overpayments.*--The Act establishes a limit on the rate of recovery from SSI recipients who have been overpaid. In the case of overpayments, the conference agreement limits the amount of adjustment or recovery in any month to the lesser of: (1) the amount of the benefit for that month; or (2) an amount equal to 10 percent of the countable income (including the SSI payment) of the individual (or couple) for that month. This limitation would not apply if there is fraud in connection with the overpayment. The recipient may request a different rate at which beneits or income may be whitheld or recovered.

*3. Limit on recovery of overpayments when recipient has excess assets.*—Under present law, if in any month, a recipient's assets exceed the asset limit (currently $1,500 for an individual and $2,250 for a couple) the individual is ineligible for benefits in that month and the entire amount of the benefit paid for that month is considered an overpayment subject to recovery. The Act provides that in cases where there is an overpayment based on an excess of assets of $50 or less, the recipient would be deemed to be without fault for purposes of waiving the overpayment and the overpayment would not be recovered unless the Secretay finds that the failure to report the excess was knowing and willful on the part of the recipient.

*4. Exclusion of retroative payments from resources.*—Under present law, for purposes of determing SSI eligibility and benefit amounts, a retroactive SSI check in not counted as income to the recipent. By regulation, the Social Security Administration has provided that a retroactive SSI check is not counted as a resource for three months beyond the month in which it is received. A retroactive social security (title II) check is considered to be unearned income in determing the applicable monthly benefit amount, and is considered a resource if it is retained in months thereafter. The Act provides that SSI and title II retroactive benefit payments may not be considered as a resource for a period of 6 months after the month in which the retroactive benefit is received.

*5. Adjustments in SSI and OASDI benefits on account of retroactive payment.*—Under present law, OASDI benefits that are paid retroactively following the initial determination of eligibility are reduced by the amount of any excess SSI benefits that have been paid because the OASDI benefits have been received in a lump sum rather than in the months when regularly payable. The Act would expand this provision to also provide for reducing the retroactive SSI payment in cases where retroactive OASDI benefits are paid before the SSI benefits and to make other technical changes.

*6. Exclusion from income of Alaska bonus payment.*—An amendment to the SSI statute in 1975 provided for the exclusion from countable income of the Alaska "longevity bonus," i.e. payments to certain individuals who have lived in the State at least 25 years. As the result of an Alaska State Supreme Court decision, Alaska enacted a revision that reduces the residency requirement from 25 years to one year. The Act provides for the continued disregard of the Alaska bonus but it would apply only to those individuals who, prior to October 1, 1985, meet the 25-year residency requirement of

eligibility for the Alaska bonus as it was in effect prior to the recent amendments mandated by the courts.

*7. Income and eligibility verification procedures.*—Under present law, IRS wage information furnished by employers to IRS is available to state welfare agencies for use in their AFDC and food stamp programs, and to the Social Security Administration for administering the SSI program. However, IRS unearned income information (filed by a financial institution or corporation with respect to payments to individuals in the form of interest, dividends, etc.) is not available to Federal and State agencies for use in the administration of these programs. Quarterly wage information from the unemployment compensation program is available to State welfare agencies in most States.

The act provides for the IRS to disclose return information with respect to unearned income to Federal, State, or local agencies administering AFDC, SSI Medicaid, food stamps, and the cash assistance programs administered in Puerto Rico, Guam, and the Virgin Islands.

Disclosure can only be made to agencies that meet the requirements to safeguard this confidential information against disclosure, and vertification of the unearned income information is required prior to taking action to reduce or terminate benefits.

The provision also replaces existing statutory provisions relating to use (for purpose of AFDC) of return and other wage information and use of social security numbers, by adding a new section to the Social Security Act requiring States to have in effect an income and eligibility verification system for use in administering the AFDC, Medicaid, unemployment compensation, and food stamp programs (and the adult assistance programs in the territories). State agencies must request and make use of: (1) wage and other income information available under the Internal Revenue Code; and (2) quarterly wage information. Each State is required as of September 30, 1988, to maintain a quarterly wage reporting system although not necessarily through its unemployment compensation system.

The income and eligibility system requires use of standardized data formats to facilitate exchange of information, for the purpose of identifying and reducing ineligibility and incorrect payments.

### SSI AMENDMENTS ENACTED AS PART OF THE SOCIAL SECURITY DISABILITY REFORM ACT OF 1984 (P.L. 98-460)

*1. SSI Benefits for Persons Working Despite Severe Impairments.*—Extends through June 30, 1987 the provisions of Section 1619 which provides for the continuation of SSI benefits and/or Medicaid for disabled individuals who are able to work in spite of their impairments. In addition, the Act requires the Secretary of Health and Human Services and the Secretary of Education to disseminate information about the Section 1619 program to the disabled and the staff of various public and private organizations concerned with services to the disabled.

*2. SSI Disability Program Work Evaluation and Rehabilitation Study.*—The Act specifically directs the Social Security Advisory Council to study alternative approaches to work evaluations for dis-

abled SSI applicants and recipients and the effectiveness of vocational rehabilitation programs.

*3. SSI Conforming Amendments.*—Included in the Act are provisions to make generally the same changes in the SSI statute as were made in the Disability Insurance program under Title II of the Social Security Act.

### D. TITLE XX SOCIAL SERVICES, CHILD WELFARE, FOSTER CARE AND ADOPTION ASSISTANCE

*Hearings.*—On July 19, 1983, the Subcommittee held a hearing on legislation (H.R. 2354) which would have provided for an increase in the statutory funding ceiling under the Title XX social services program and to make permanent the temporary provisions of P.L. 96-272 to provide federal funds for children placed in foster care on a voluntary basis. (Serial 98-37).

On April 16, 1984, the Subcommittee held a hearing in Oakland, California on the implementation of the Adoption Assistance and Child Welfare Amendments of 1980 (P.L. 272). The hearing was also a continuation of the Subcommittee's examination of the impact of the federal budget cuts in social services, AFDC and other federally financed programs that assist families. (Serial 98-83).

On June 1, 1984, the Subcommittee held a hearing in Hartford, Connecticut on child welfare and adoption assistance issues and the implementation of the 1980 amendments.

*Legislation.*—P.L. 98-118, the Federal Supplemental Compensation Amendments of 1983, contained the following amendments:

1. Extended for one year to September 30, 1984, the authority for States to claim Federal matching funds for children who are placed in foster care under a voluntary placement agreement between the agency and the child's parent's.

2. Increased the statutory funding ceiling for the Title XX social services block grant to $2.7 billion for fiscal year 1984 and subsequent fiscal years.

P.L. 98-617, contained the following child welfare and foster care amendments:

1. Extended for one year to September 30, 1985, the authority for States to claim Federal matching for children placed in foster care under voluntary placement agreements.

2. Extended for one year to September 30, 1985, the provision which allows States to transfer funds allocated to them for foster care under Title IV-E to use for child welfare services under Title IV-B of the Social Security Act.

### E. UNEMPLOYMENT COMPENSATION

*Hearings.*—The Subcommittee held two days of hearings on February 8, 9, 1983 on unemployment compensation issues. Of main concern at that time was the need to extend the Federal Supplemental Compensation program, which was due to expire at the end of March 1983. (Serial #98-11.)

On May 3, 1983, the Subcommittee held a joint hearing with the Subcommittee on Social Security on H.R. 1646, the Railroad Retirement Solvency Act of 1983. The hearing focused on the solvency of

the railroad unemployment conpensation program and its outstanding debt to the rail pension fund. (Serial #98-18.)

On June 17, 1983, the Subcommittee held a joint hearing with the Subcommittee on Health on the issue of health insurance for the unemployed. (Serial #98-27.)

On September 13, 1983, the Subcommittee held a hearing on the extension of the Federal Supplemental Compensation program, which was due to expire on September 30, 1983. The hearing also examined the need to reform the permanent extended benefits program. (Serial #98-50.)

On September 12, 1984, the Subcommittee held a hearing on the need to improve the Unemployment Insurance System. The hearing focused on proposals to establish a permanent program of supplemental benefits to be paid in periods of high unemployment. (Serial #98-111.)

On September 18, 1984, the Subcommittee held a hearing on the report of the Railroad Unemployment Compensation Committee, which had been established by the Railroad Retirement Solvency Act of 1984. (Serial #98-105.)

*Legislation.*—In the 98th Congress, the following legislative provisions concerning the Unemployment Compensation Program were enacted by Public Laws 98-21, 98-118, and 98-135.

*1. Extension of Federal Supplemental Compensation Program.*—During 1983, Federal supplemental benefits were extended three times. The first extension was for six months and was part of the Social Security Amendments of 1983 (Public Law 98-21). The next extension with no change from existing law was for three weeks (Public Law 98-118) and the last extension (Public Law 98-135) extended the program through the week of March 31, 1985.

Under Public Law 98-21 the FSC program was extended for 6 months from April 1, 1983 through September 30, 1983. The same provisions were extended through the week of October 16 as a result of Public Law 98-118.

Effective April 1, 1983, FSC benefits were payable as follows:

*(a) Basic FSC Benefits.*—Individuals who began receiving FSC on or after April 1, 1983 could receive up to a maximum of:

(1) 14 Weeks in States with average IUR 6.0 percent and above;
(2) 12 weeks in States with average IUR 5.0 to 5.9 percent;
(3) 10 weeks in States with average IUR 4.0 to 4.9 percent;
(4) 8 weeks in all other States.

The maximum number of weeks payable in a State after April 1, 1983 could be no more than 4 weeks less than the maximum number payable on March 27, 1983.

*(b) Additional FSC Benefits.*—Individuals who exhaust FSC on or before April 1, 1983 could receive additional weeks of FSC benefits up to a maximum of:

(1) 10 weeks in States with IUR at 6.0 and above
(2) 8 weeks in States with IUR at 5.0 to 5.9
(3) 6 weeks in all other States.

*(c) Transitional FSC Benefits.*—Individuals who begin receiving FSC before April 1, 1983 and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC en-

titlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

*(d) Phaseout FSC Benefits.*—Individuals who have not exhausted their FSC entitlement on September 30, 1983, when the program expires, would be eligible to receive up to 50 percent of their remaining FSC entitlement. No new claimants would be added to the FSC program on or after September 30, 1983.

Under Public Law 98-135, the FSC program, with modifications, was extended effective from the week of October 23, 1983 through the week of March 31, 1985.

*Basic FSC Benefits.*—The maximum number of basic weeks of FSC payable in the States ranges from 8 to 14 weeks. The maximum in each State will be determined by the State's moving 13 week average insured unemployment rate (IUR), as determined in the current Extended Benefit and FSC programs, *or* the State's cumulative average IUR since January 1, 1982 and through the second preceding calendar quarter. (To determine basic FSC weeks payable the week of October 23, 1983, the first week of this extension, the cumulative average IUR included the weeks of January 1, 1983 through June 1983.)

A maximum of:

(a) 14 weeks is payable in States with a moving 13 week average insured unemployment rate (IUR) of at least 6.0 percent *or* a cumulative average IUR since January 1, 1982 of at least 5.5 percent.

(b) 12 weeks is payable in States with a moving 13 week average IUR 5.0 to 5.9 percent *or* a cumulative average IUR since January 1, 1982 of 4.5 to 5.4 percent.

(c) 10 weeks is payable in States with a moving 13 week average IUR 4.0 to 4.9 percent.

(d) 8 weeks is payable in all other States.

Unemployed workers who first apply for FSC benefits for or after the week of October 23, 1983, receive weeks of FSC benefits equal to 55 percent of the number of weeks of regular State unemployment benefits they received, up to the maximum number of basic FSC benefits payable in the State in the week in which they first filed their claims.

There was no adjustment, or tiering up or down, in the basic FSC entitlement of individuals who received or who exhausted benefits before the week of October 23, 1983. The basic FSC entitlement of these individuals remained at the level established under the law in effect the week of October 16, 1983.

*Reach-back and Transitional Benefits.*—Individuals who first became eligible for FSC between April 1, 1983 and the week of October 23, 1983 could receive the following amounts of reach-back or transitional benefits:

(a) a maximum of 5 weeks of reach-back benefits would be paid to individuals who exhaust FSC benefits before week of October 23, 1983;

(b) a maximum of 4 weeks of transitional benefits in 12 and 14 basic week states, and 2 weeks of transitional benefits in 8 and 10 basic week states, would be paid to individuals who,

under current law, are eligible for FSC benefits the week of October 16 and subsequent weeks.

However, individuals who qualify for reach-back or transitional weeks cannot receive more weeks of FSC benefits after October 23, 1983 than the maximum number of basic weeks of FSC payable in the State as of that date.

*Limitation on Reduction of Basic Weeks Payable in a State.*—Beginning with the week of October 23, 1983, (a) the maximum number of basic weeks payable in a State will be adjusted (up or down) no more frequently than every thirteen weeks; and, (b) a single adjustment shall not exceed two weeks.

*Limitation on Reduction of FSC Weeks Payable to Individuals.*—Beginning with the week of October 23, 1983, individuals will continue to be eligible for the number of FSC weeks to which they were entitled at the time they first qualified for FSC, regardless of changes (up or down) in the number of basic weeks payable in the State. As under current law, an individual who makes an interstate claim for FSC benefits will receive the lesser of (a) the number of weeks of FSC payable in the State in which he receives the benefits or (b) the maximum number of weeks payable in his or her former State.

*2. Limitation on Disqualification of FSC Claimants Who Enroll in Training.*—Public Law 98–21 prohibits the denial of FSC to any otherwise eligible claimant for any week because: (1) the claimant is attending training or an accredited educational institution on a full-time basis; or (2) because of State law requirements that the claimant must be available for work, actively searching for work, or must not have refused work during the training, unless the State agency determines that the training will not improve the claimant's employment opportunities.

*3. Deferral of Interest Payments on State Loans From the Federal Unemployment Account.*—Prior law imposed interest of up to 10 percent per year on Federal unemployment compensation loans obtained by the States after April 1, 1982, except for "cash flow" loans that States repay by the end of the fiscal year in which the loans were obtained. A State with high unemployment can defer payment of, and extend the payment for, 75 percent of interest charges due in any year. The State must pay one-third of the deferred amount in each of the three years following the fiscal year for which it is due. Interest is charged on the deferred interest. In order to qualify for this deferral and extension of the payment period, the State insured unemployment rate must have equaled or exceeded 7.5 percent during the first 6 months of the preceding calendar year.

*Public Law 98–21* (a) Makes the provisions imposing interest on loans to States permanent. (b) The Act also allows States to defer 80 percent of the interest due for a fiscal year, effective for interest accrued in fiscal years 1983, 1984, and 1985. The deferred amount would be payable in 4 installments in the succeeding years equal to at least 20 percent of the original amount due. A State would be required to meet conditions 1 and 2(A) or 2(B) below to qualify for the deferral:

(1) no action has been taken to reduce its tax effort or trust fund solvency; and

(2)(A) action (certified by the Secretary of Labor) has been taken after March 31, 1982 which increases revenues and decreases benefits by a total of 25 percent in the calendar year immediately following the fiscal year for which the first deferral is requested; and, deferral of interest due for the years immediately following the year in which the first year change is effective may be received if changes of 35 and 50 percent are made; or,

(B) for taxable year 1982, total State UC tax revenues equaled at least 2 percent of total wages paid by employers covered under the State UC law.

(c) Interest will not be charged against any interest for which payment is deferred under current law deferral provisions or those added by this bill and summarized in (b) above.

(d) The Act allows a State to delay for up to nine months the payment of interest due for any calendar year after 1982 during which the average total unemployment rate in the State was 13.5 percent or higher. The average total unemployment rate for a State shall be computed using the 12-month period for which the most recent information is available prior to the month in which the interest is due. Interest will *not* be charged against interest for which payment is delayed.

(e) The Act allows States to receive a discounted interest rate that would be one percentage point below the interest rate that would otherwise apply. This would be authorized for interest accrued only for fiscal years 1983, 1984, and 1985. It wouls be available under the same conditions as the new deferral above, except the required percentage changes in (2) would be higher at 50, 80, and 90 percent, respectively.

For purposes of determining whether a State meets the conditions in (2) above, the Secretary of Labor will provide an estimate of the unemployment rate for the base year, the calendar year in which the deferral is requested. The level of benefits and revenue liabilities will be determined using the State law in effect before passage of the legislation. The estimate of changes as a result of new legislation will be made from the base year in each year for which a deferral is requested. Changes in State law which automatically provide for increases in benefit amounts will be considered as if they were in effect in the base year for purposes of determining the change occurring as a result of new legislation. The Secretary of Labor may use historical growth rates for indexed items if appropriate. Once a deferral is approved, a State must continue to maintain its solvency effort. Failure to do so would result in immediate payment of all deferred interest.

Increases in the taxable wage base from $6,000 to $7,000 after calendar year 1982 and increases in the maximum FUTA tax rate to 5.4 percent after calendar year 1984 will not be counted for purposes of meeting condition (2).

States will not be penalized or rewarded if economic events change from those used in the base year for computing eligibility under conditions (2).

*4. Cap on FUTA Credit Reduction.*—Under prior law, the Federal Unemployment Tax Act (FUTA) imposed a Federal unemployment compensation (UC) tax on employers in all States at a rate of 3.5

percent, on a taxable wage base of $7,000. However, employers in States generally receive a FUTA tax credit of 2.7 percent, resulting in a net Federal tax rate of 0.8 percent. States with insufficient State unemployment compensation revenues to meet State unemployment compensation obligations may borrow from the Federal Unemployment Account. If a state defaults on its loans from the Federal account, employers in the State begin to lose the FUTA tax credit at the rate of at least .3 percent a year. For example, because of overdue Federal UC loans, 16 States experienced a reduction in the 2.7 percent credit for tax year 1983.

Specifically, if a Federal UC loan is not entirely repaid by the State by the second January 1 after the State receives the loan and remains unpaid on the following November 10 of the year, the FUTA tax credit applicable for that year for the State's employers is reduced by .3 percent. For each succeeding year in which the loan remains outstanding, the reduction is at least an additional .3 percent (i.e., .6, .9, 1.2 percent, etc.). Additional offset credit reductions may apply to a State beginning in the second year of repayment if certain criteria are not met. Under legislation enacted in the 1970's, credit reductions were not imposed from 1975–1980 for States satisfying specific requirements.

The 1981 Budget Reconciliation Act made two major changes in loan payment conditions, effective from January 1, 1981 to December 31, 1987: (1) interest of up to 10 percent is charged on loans made after April 1, 1982 (except those made for "cash flow" purposes and repaid by the end of the fiscal year in which they occur); and (2) States were allowed to "cap" the automatic FUTA credit reductions if certain solvency requirements are met.

In a State that qualifies for the cap, the tax credit reduction is limited to the higher of 0.6 percent, or the rate that was in effect for the State for the preceding calendar year.

The cap provisions are designed to give States additional time to make legislative and administrative changes necessary to restore the State trust funds to solvency. These provisions lengthen the repayment period, but do not reduce a State's total liability.

In order to qualify for the cap on the automatic credit reductions a State must demonstrate that:

(1) the net solvency of its UI system has not diminished (effective for taxable years 1981–1987);

(2) there have been no decreases in its unemployment tax effort (effective for taxable years 1981–1987);

(3) its average tax rate for the calendar year equals or exceeds its average benefit cost rate for the prior five years (effective for taxable years 1983–1987); and

(4) the outstanding loan balance as of September 30 of the tax year in question is not greater than on the third preceding taxable year (effective for taxable years 1983–1987 the comparable year for taxable year 1983, however, is 1981).

*Public Law 98–21* makes the credit reduction cap provisions in present law permanent.

A State would still be required to meet all four conditions in present law to qualify for the full credit reduction cap. The amendment would, however, provide two lower annual credit reductions, if a State does not qualify for the total cap:

(1) If a State meets the first two present law credit reduction cap conditions and either of the remaining two conditions, the annual credit reduction would be reduced by 0.1 percentage points from what it would have been if the State had not qualified for a cap; and

(2) If a State meets the first two credit reduction cap conditions and qualifies for the interest deferral as a result of substantial changes in its unemployment compensation law, the annual credit reduction would be reduced by 0.2 percentage points from what it would have been if the State had not qualified for a cap. A substantial change in action (certified by the Secretary of Labor) taken after March 31, 1982 which increases revenues and decreases benefits by a total of 25 percent in the calendar year immediately following the fiscal year for which the first interest deferral is requested. Deferral of interest due for the years immediately following the year in which the first year change is effective may be received if changes of 35 and 50 percent are made.

The lower credit reductions would be authorized only for taxable years 1983, 1984, and 1985 liabilities. Credits earned during this period would be applied in determining the State's offset credit reduction for years after 1985.

The January 1st of each year for which a State qualifies for a partial limitation on the offset credit reduction will be taken into account for purposes of determining future offset credit reduction. The credit reduction applicable in each subsequent year after the partial limitation is in effect would continue to be reduced by the amount by which the offset credit was reduced.

*5. Average Employer Contribution Rate.*—Prior law provided that a State, in the second year in which the offset credit reduction is imposed to repay outstanding loans, may be subject to an additional credit reduction equal to the amount by which the State's average tax rate is lower than 2.7 percent. The average tax rate and the 2.7 percent are computed from the ratio of taxes collected to State and Federal taxable wages, respectively. Taxable wages are determined by the taxable wage base. any wages above the taxable wage base are therefore not included.

In States where the taxable wage base exceeds the Federal taxable base of $7,000, the ratio of the State's UC tax revenues to the State's taxable wages will be lower than it would be if the taxable wage base was $7,000. This could activate the additional credit reduction in the second year even though these States have relatively higher tax efforts.

*Public Law 98-21* changes the calculations so that all wages instead of just taxable wages are counted in the denominators of the State tax rates and the 2.7 percent. Each State's tax rate on all wages subject to contributions under Federal Unemployment Tax Act (FUTA) is compared to an estimate of the national percentage of all wages subject to FUTA contributions that 2.7 percent of taxable wages represents. The 2.7 percent factor is calculated as the product of 2.7 percent and the ratio of the Federal taxable wage base ($7,000) and the estimated United States average annual wage in covered employment for the calendar year in which the determination is made.

*6. Date for Payment of Interest.*—Prior law required that interest is due no later than the first day of the next fiscal year. If the next fiscal year falls on a weekend, interest is due in the prior fiscal year. Otherwise, it is due on the first day of the next fiscal year.

*Public Law 98-21* requires payment of interest before the first day of the next fiscal year.

Effective on date of enactment.

*7. Penalty for Failure to Pay Interest.*—Under prior law, if a State does not pay interest when it is due, there are no provisions in present law through which the Federal government can penalize the State or enforce the collection of interest charges.

*Public Law 98-21* provides that, if a State fails to pay interest charges when they are due, (a) Federal unemployment comnpensation and employment service administrative funds will be withheld and (b) the State's unemployment compensation program will lose its Federal certification, which will result in employers in the State losing eligibility for the credit against the Federal unemployment tax.

*8. Treatment of Employees Providing Services to Educational Institutions.*—Under prior law, The Federal Unemployment Tax Act (FUTA) covers employees of educational institutions. FUTA requires States to deny benefits between academic years or terms to certain professional employees working in instructional, research, and principal administrative capacities if they have a reasonable assurance of returning to work in the next academic year or term FUTA gives the States the *option* of applying the same denial of benefits provision to nonprofessional employees of educational institutions.

Under *Public Law 98-21* States would be *required*, to deny benefits between academic years or terms to nonprofessional employees of educational institutions if the employees have a reasonable assurance of returning to work in the next academic year or term;

States have the option to deny benefits between terms to individuals performing services on behalf of an educational institution or an educational service agency even though not employed by either the institution or agency.

*9. Extended Benefits for Individuals Who Are Hospitalized or on Jury Duty.*—Prior law disqualified claimants from receiving Extended Benefits or Federal Supplemental Compensation if they were not actively seeking work. Moreover, the disqualified claimant must go back to work for a least 4 weeks and earn at least 4 times his weekly benefits amount before he can qualify again for Extended Benefits or Federal Supplemental Compensation.

*Public Law 98-21* permits States to determine weekly eligibility based on availability for work for claimants of Extended Benefits and FSC who are serving on jury duty or are hospitalized for treatment of an emergency or life-threatening condition. A State must treat these individuals in accordance with their own State unemployment compensation law.

*10. Option for Voluntary Health Insurance Deduction From Unemployment Benefits.*—Section 3304(a)(4) of the Federal Unemployment Tax Act prohibits States from withdrawing money from the State unemployment trust fund for anything except the payment of

unemployment conpensation benefits or to refund certain taxes erroneously paid by employers.

*Public Law 98-21* provides States the option of deducting an amount from the unemployment compensation benefits otherwise payable to an individual and using the amount deducted to pay for health insurance, if the individual elects to have such a deduction made from his benefits.

*11. Treatment of Certain Organizations Who Were Retroactively Granted* 501(c)(3) *Status.*—Unemployment insurance coverage was extended to employees of certain nonprofit organizations in 1970 and then extended to employees of generally all nonprofit organizations in 1976.

Under the 1970 and 1976 amendments, nonprofit organizations were given the option of financing unemployment benefits paid to their former employees through the State unemployment payroll tax system that applies to private employers (contribution method) or by retroactively reimbursing the State trust fund for the amount of benefits paid to their former employees (reimbursement method).

Nonprofit employers who had voluntarily covered their employees prior to the 1970 or 1976 amendments and financed benefit costs by the contribution method, and after enactment of the 1970 or 1976 amendments chose to switch to the reimbursement method of financing, were permitted to apply any accumulated balance in their accounts toward costs incurred in the future and paid for on a reimbursement basis. The authority to make such a transfer, however, was available for a limited period of time that expired shortly after enactment of the 1976 and 1970 amendments.

*Public Law 98-21* allows a nonprofit organization that elects to switch from the contribution to the reimbursement method of financing unemployment benefits to apply any accumulated balance in its State unemployment account to costs incurred after it switches to the reimbursement method, under the following conditions:

(1) the organization did not elect to switch to the reimbursement method under prior authority because during these periods the organization was treated as a 501(c)(4) organization by the IRS, but the organization has been subsequently determined by the IRS to be a 501(c)(3) organization; and,

(2) the organization elects to switch to the reimbursement method before the earlier of 18 months after such election was first available to it under State law or January 1, 1984.

*12. Treatment of Payments to Estates of Deceased Individuals.*—Under prior law, Federal social security taxes (FICA) were not imposed on payments by employers to survivors or the estates of deceased individuals. However, such payments were subject to Federal Unemployment Taxes (FUTA).

Under *Public Law 98-135,* with regard to payments made by employers to the estates or survivors of deceased individuals, the Federal unemployment tax (FUTA) definition of taxable wages is conformed with the prior Social Security tax (FICA) definition. As with social security taxes, Federal unemployment taxes will no longer be imposed on such payments after the calendar year in which the individual died.

*13. Treatment of Certain Alien Farmworkers.*—Under the Immigration and Nationality Act, residents of foreign countries who do

not intend to abandon such residency may be admitted to the United States to work for a temporary period of time during peak agricultural crop seasons. Until January 1, 1984, wages paid to such alien farmworkers are excluded from Federal unemployment taxes (FUTA).

*Public Law 98-135* extends for two years—from January 1, 1984 to January 1, 1986—the provision of prior law that excludes wages paid to certain alien farmworkers from FUTA taxes.

*14. Reports From the Department of Labor.*—

*Public Law 98-135* requires the Department of Labor to submit reports to Congress no later than April 1, 1984 on (a) the feasibility of targeting FSC benefits to substate areas on the basis of unemployment levels in such substate areas; and, (b) the feasibility of indentifying "structurally" unemployed workers at the time they claim unemployment compensation benefits.

*15. Direct Repayment of General Revenue Advances.*—Title XII of Social Security Act authorizes advances from general revenues to the Federal unemployment account (FUA) of the unemployment trust fund. This is the account from which loans are made to the States and to which repayments of those loans are credited. Such advances may be repaid only if: (1) the FUA exceeds its statutory limit at the end of a fiscal year and (2) the employment security account (ESA) exceeds its statutory end-of-year limit. The law requires any excess from FUA to be transferred directly to the extended unemployment compensation account (EUCA) from which general revenue advances may be repaid.

*Public Law 98-118* would allow for direct repayment of general revenue advances from the State loan acount in the unemployment trust fund, if the Secretary of Labor and the Secretary of the Treasury determine that adequate funds are available in the account for such purpose. This amendment would ultimately allow for the full repayment of all outstanding general revenue advances to the FUA account. The Act also requires that any amounts which may have already been transferred under the prior law provisions are to be transferred back to the Federal Unemployment Account as soon as this legislation is enacted.

*16. Reports on Efforts to Prevent Incorrect Unemployment Compensation Payments to Retirees and Prisoners.*—

*Public Law 98-135* requires the Secretary of Labor, the Attorney General, and the Director of the Office of Personnel Management to make available to the States such information about Federal employees, retirees, and prisoners as may be useful in determining unemployment eligibility. The Secretary of Labor is also directed to issue a report to Congress which will detail the actions taken and other steps which could be taken to ensure that unemployment benefits are not paid to certain retired individuals or prisoners. The report should include recommendations for further legislation which might be necessary to aid in preventing such incorrect payments. The report must be submitted to Congress by January 31, 1984.

*17. Cap on the Reduction in the Number of Weeks of Federal Supplemental Compensation Payable in a State.*—Public Law 98-21 provided that the number of weeks of FSC benefits payable in a State could be no more than four weeks less than the number of weeks of

FSC payable in the State for the week of March 27, 1983 if the number of weeks of benefits payable in the State for the first week of the extension contained in Public Law 98–21 was more than four weeks less than the number of weeks of benefits payable in the State for the week of March 27, 1983.

*Public Law 98–92.* provided that if the number of weeks of benefits payable in a State for the week of July 24, 1983 was four or more weeks less than the number of weeks of benefits payable in the State for the week of March 27, 1983, then the number of weeks of benefits payable in the State for weeks beginning after the week of July 24, 1983 could not be more than four weeks less than the number of weeks of benefits payable in the State for the week of March 27, 1983.

The Act also provided that if an individual had established an FSC account prior to the week of June 5, 1983, the maximum number of weeks of benefits such individual could receive could not be more than four weeks less than the maximum number of weeks of benefits payable in the State for the week of March 27, 1983.

### F. RAILROAD UNEMPLOYMENT COMPENSATION PROGRAM

The Congress enacted the Railroad Retirement Solvency Act of 1983 (P.L. 98–76). Under the Act. The RRUC program would be allowed to continue to borrow from the Railroad Retirement Account, as under current law, but only unitl September 30, 1985.

Effective January 1, 1984 RRUC employer taxes were increased by 50 percent, by increasing the amount of monthly wages subject to the tax from $400 to $600.

Effective July 1, 1986 through September 30, 1990, a "Federal repayment" tax would be imposed on railroad companies. The tax would be equal to 2.0 percent on the first $7,000 in annual wages paid to each employee. This tax will increase by 0.3 percent on each subsequent January 1, up to a maximum of 5.0 percent. Revenue raised by this repayment tax would be used only to repay loans the railroad retirement account has made to the RRUC program.

A Railroad Unemployment Compensation Committee was established for the purpose of reviewing all aspects of the railroad unemployment program and submitting a report to Congress no later than April 1, 1984 containing (a) recommendations based on its review of the program and (b) recommended adjustments in contributions and benefits which will enable the RRUC program to repay all loans from the Railroad Retirement Account by the end of the year 2000.

The Congress enacted H.R. 4170, the Deficit Reduction Act of 1984. The Act amended the FUTA treatment of tip income and extended the exclusion from FUTA of wages earned by certain fishing vessel workers.

The Act provides that all tip income reported by an employee to an employer is considered wages for FUTA purposes. The provision generally is effective on January 1, 1985. However, in the case of any State the legislature of which (1) did not meet in a regular session which begins during 1984 and after the date of enactment, and (2) did not meet in a session which began on the date of enactment

and remained in session for at least 25 calendar days after the date of enactment, the provision is effective on January 1, 1986.

Remuneration paid to fishing boat crew members is generally subject to FUTA if the services performed are related to catching halibut or salmon for commercial purposes or if the services are performed on a vessel of more than 10 net tons.

Under a provision which expired on December 31, 1982, remuneration paid to fishing boat crew members was exempt from FUTA if the remuneration depends on the boat's catch and the crew normally consists of fewer than 10 members.

The Act extends the exemption through December 31, 1984.

The Congress enacted P.L. 98-601, which would allow the State of Illinois to gradually increase the State tax cap on small employers to 5.4 percent while allowing Illinois employers to claim the full FUTA tax credit.

### G. EMERGENCY FOOD AND SHELTER AND RELATED ISSUES

*Hearings.*—On June 10, 1983, the Subcommittee held a hearing in McAllen, Texas on the effect of the peso devaluation on the economy in the region of Texas bordering Mexico and the resulting effect of high unemployment on demands for increased public assistance and emergency social services. (Serial #98-31.)

On November 18, 1983, the Subcommittee held a hearing in Atlanta, Georgia for the purpose of examining the impact of the federal budget cuts and the ability of State and local governments and nonprofit agencies to cope with the growing demand for social services for the unemployed, the elderly and families with dependent children. The increasing demands for shelters for the homeless and the impact of the Emergency Food and Shelter program which was funded through the Emergency Jobs bill of March of 1983 was also examined. (Serial #98-58.)

On April 9, 1984, the Subcommittee held a hearing in Memphis, Tennessee on the impact of federal budget cuts on emergency food and shelter needs. The hearing also included testimony on the experiences of public and private agencies in administering the Emergency Food and Shelter program. (Serial #98-81.)

*Legislation.*—The Subcommittee did not directly act on legislation related to the emergency food and shelter program that was enacted during the 98th Congress.

As part of the Emergency Jobs Bill which was enacted in March 1983, there was established for the first time a temporary program intended to provide funding for emergency food and shelter for the homeless and others in need of emergency care in all the States. The program was operated through two funding tracks. One track was the $50 million which was appropriated for the Federal Emergency Management Assistance (FEMA) to distribute to an ad hoc board of the heads of specified private voluntary organizations and under the auspices of the United Way of America. These funds were then distributed directly to local United Way organizations with a similar constituted board of local voluntary agencies.

The other track for the distribution of funds for emergency food and shelter was the $50 million which was distributed through FEMA to States which then developed their own means of alloca-

tion of funds within the State. The Subcommittee surveyed the States to determine the use made of these funds.

As part of the Continuing Resolution enacted in the Fall of 1983, an additional $40 million was provided through the United Way track for emergency food and shelter primarily for the purpose of enabling the local private agencies to continue to provide such assistance through the winter months.

## Tariff, Trade, and Customs Laws

The 98th Congress has been an active Congress for the Subcommittee on Trade in terms of both oversight and legislation. Members of the Subcommittee and the trade staff, through formal briefings and informal meetings, were in constant touch with agencies in relation to the administration of statutes and programs under jurisdiction of the Subcommittee. Throughout the 98th Congress, Members and staff also met with private sector representatives (business, labor and consumers interests) and foreign delegations (government and private) on trade issues of concern to the Subcommittee. In additional to responsibility for multilateral and bilateral trade negotiations and agreements, the Subcommittee on Trade exercises oversight and legislative jurisdiction in the areas of customs and customs administration, the U.S. International Trade Commission, unfair trade practices, import relief trade matters, trade adjustment assistance, and special trade-related problems involving market access (including statistical programs involving exports, imports, and domestic production) generally and with respect to particular industries, trade with developing countries, operations of multinational corporations, and East-West trade.

As a result of the increased focus on trade matters by the Committee on Ways and Means during the 98th Congress and in anticipation of a continued high level of activity in this area, the staff prepared for the use of the Committee a document entitled, "Overview of Current Provisions of U.S. Trade Law," to provide a description of the provisions, operation and background of existing U.S. foreign trade laws and programs.

### A. TRADE AGREEMENTS OVERSIGHT

Enactment of the Trade Agreements Act of 1979 approved and implemented for the United States the trade agreements negotiated during the Tokyo Round of Multilateral Trade Negotiations (MTN), the most comprehensive trade negotiation in history. Subcommittee Members and the trade staff have maintained close and continual oversight of the implementation of the MTN agreements by the United States and by foreign governments, and of continuing developments under the trade agreements program.

The Subcommittee has received frequent briefings by representatives of the Executive branch having responsibility in the trade area. Members and staff have continued bipartisan visits to Geneva to attend meetings under the auspices of the General Agreement on Tariffs and Trade (GATT), to meet with foreign delegations, and to maintain close liaison with the U.S. Trade Representative's Office in Geneva. Oversight visits have also been made to key GATT member capitals and to Brussels for meetings with officials

of the European Communities and the Customs Cooperation Council (CCC).

Further, staff also continues to attend meetings of the private sector advisory committees representing industry, agriculture, labor, and consumers, continued under the Trade Agreements Act to provide advice to the Executive branch on MTN implementation and current trade policy issues. The Subcommittee, through its annual review under the Budget Act, seeks to ensure that the President's budget requests for the Office of the U.S. Trade Representative, the Department of Commerce, the U.S. Customs Service, and the U.S. International Trade Commission are adequate for these agencies to carry out their statutory functions to implement the MTN agreements and otherwise conduct the trade agreements program.

During the 98th Congress, trade oversight visits were also made to Eastern Europe (Romania, Hungary, Czechoslovakia, Bulgaria, East Germany, and Turkey); the Caribbean (Jamaica, Barbados, Costa Rica, Grenada and the Dominican Republic); Israel and Portugal; and the Far East (Japan and the Republic of Korea). In all countries visited, meetings were held with U.S. Embassy officials, host government representatives, and representatives of both the American and local business communities to discuss bilateral and multilateral trade issues. The visits to the Caribbean and to Israel were made in conjunction with Committee on Ways and Means consideration of specific legislation as described below.

### B. TRADE REMEDIES LEGISLATION

The most intensive legislative activity of the Subcommittee on Trade during the 98th Congress was development of a bill, H.R. 4784 introduced by Mr. Gibbons with other Committee on Ways and Means cosponsors, to amend the basic trade statutes providing U.S. industry and workers relief from injuries foreign unfair trade practices. In response to concerns expressed by Members and the private sector, the Subcommittee held extensive hearings for seven days in March, April, and May 1983 to receive information on the operation and effectiveness of the various U.S. trade laws providing relief to domestic producers from injurious foreign import competition or unfair trade practices and proposed options for legislative and administrative improvements in these laws (Serial Nos. 98–14 and 98–15). The Subcommittee held an additional day of hearings on October 20, 1983 on the issue of natural resource government pricing subsidies, their effects on U.S. industries, and proposed remedies (Serial No. 98–54).

Based on the hearing material and subsequent consultations between Members, staff and private sector interests, the Subcommittee developed under the leadership of Chairman Gibbons legislation during 1983 and early 1984 focusing on amendments to the countervailing duty and antidumping laws as first priority to better address unfair foreign competition from subsidy and dumping practices. Under these laws, representatives of domestic industries may file petitions with the Department of Commerce alleging foreign subsidies or dumping of particular products in the U.S. market. If Commerce makes an affirmative determination and the

International Trade Commission finds such imports cause or threaten material injury to the competing domestic industry, an offsetting duty equal to the amount of subsidy or dumping margin is assessed on the imported merchandise in addition to any normal duties.

The bill as reported by the Subcommittee on March 12, 1984 and by the Committee on Ways and Means on May 1 (H. Rept. 98–725) and passed by the House July 26, 1984 by a rollcall vote of 259–95 included extensive amendments to the countervailing duty and antidumping laws primarily to achieve two basic objectives: (1) to broaden the application of the trade remedies under these laws to newer and more subtle forms of unfair trade practices, such as upstream subsidies and downstream dumping of component materials or parts and natural resource subsidies in the form of discriminatory government pricing; and (2) to provide greater access to these laws at lower cost and less expense, particularly for small business, through procedural reforms, such as elimination of interlocutory judicial review, and clarification of various provisions to ease and improve their administration.

In the closing days of the 98th Congress the House and Senate agreed to certain provisions from this bill, passed again by the House on October 2 as an amendment to H.R. 3398, and to certain amendments to the countervailing duty and antidumping laws originating in the Senate. These unfair trade practice law reforms became Title IX of the Trade and Tariff Act of 1984, passed by the Congress on October 9 and enacted as Public Law 98–573 on October 30, 1984.

The Subcommittee on Trade and its staff will closely monitor the implementation of the amendments to these laws and continue to examine other changes which may be necessary in the various trade remedy statutes during the 99th Congress.

### C. GENERALIZED SYSTEM OF PREFERENCES LEGISLATION

Another major area of legislative activity in the Subcommittee on Trade during the 98th Congress was reauthorization of the Generalized System of Preferences (GSP) program. As Title V of the Trade Act of 1974 (Public Law 93–618) Congress authorized the President to grant duty-free treatment on imports of eligible articles from designated beneficiary developing countries for a 10-year period. The U.S. GSP program was implemented in 1976, in conjunction with schemes of other major industrialized donor countries, as a non-reciprocal, unilateral effort to encourage industrial diversification and to promote economic growth in the developing countries through preferential market access for their exports. The program currently applies to about 3,000 articles from 140 developing countries. Primarily because the statutory authority requires exclusion of import-sensitive articles from program coverage and GSP duty-free treatment is limited under so-called "competitive need" ceilings, GSP duty-free imports of $10.8 billion in 1983 accounted for only about 4 percent of total U.S. imports and 0.5 percent of total U.S. consumption. The authority to grant GSP duty-free treatment under the 1984 Act expired on January 3, 1985.

In view of the upcoming expiration of the GSP authority and the desire of the Administration to obtain renewal as an important element of U.S. economic and political relations with the developing countries, the Subcommittee on Trade held hearings for three days on August 3, 1983 (Serial No. 98–46) and on February 8 and 9, 1984 (Serial No. 98–59) on the operation of the program and on various proposals for renewed authority. Testimony from the Administration and private sector interests revealed general support for GSP extension, but conditioned on a diverse range of proposed substantive changes to better achieve certain objectives as well as on continued exclusion of certain import-sensitive products.

H.R. 6023, introduced by Mr. Frenzel on July 25, 1984, reflected Administration proposals as amended by the Senate and formed the basis for further Subcommittee consideration. The bill as amended and ordered reported by the Subcommittee on September 13, 1984 and reported by the Committee on Ways and Means on September 27 (H. Rept. 98–1090), renewed the program for five years with changes to address the major concerns that GSP opportunities be distributed to the more needy countries by reducing duty-free limitations on their eligible imports and by requiring more rapid "graduation" of the advanced developing countries through elimination of preferential treatment on their products demonstrated to be competitive and from GSP entirely once their per capita GNP exceeds a certain annual level. The bill also added criteria for the designation of beneficiary developing countries, including protection of intellectual property rights, provision of internationally recognized worker rights, and greater market access for U.S. exports.

The House passed H.R. 6023 as an amendment to H.R. 3398 on October 2, 1984. The House and Senate agreed to renewal for 8½ years until July 4, 1993 as Title V of the Trade and Tariff Act of 1984. The Subcommittee and its staff will be closely monitoring the implementation of the program changes and their impact on its operation during the 99th Congress.

### D. CARIBBEAN BASIN ECONOMIC RECOVERY ACT LEGISLATION

H.R. 2769, the Caribbean Basin Economic Recovery Act, more commonly known as the Caribbean Basin Initiative (CBI) was introduced and referred to the Committee on Ways and Means on April 27, 1983 in response to a Message to the Congress from President Reagan. The Committee held hearings on the proposal on June 9 and reported H.R. 2769 with amendments on June 24 (H. Rept. 98–266). The bill passed the House on July 14, 1983 and again on July 28 as Title II of the Conference Report on H.R. 2973, interest and dividends tax withholding repeal, enacted as Public Law 98–67 on August 5, 1983.

The CBI has as its centerpiece the granting of one-way duty-free access to the U.S. market, with certain exceptions such as textiles, footwear, leather goods, petroleum and petroleum products, canned tuna, and certain watches, to imports from qualifying Caribbean Basin countries. The legislation also contains tax provisions with respect to rum excise tax payments to Puerto Rico and the Virgin Islands and deductions for business expenses relative to conven-

tions held in the Caribbean. A $350 million economic aid package, as the third part of the original proposal, was enacted in separate legislation. The purpose of the CBI legislation is to help alleviate a chronic economic crisis in the Basin that threatens political and social stability throughout the region and creates conditions which Cuba and others seek to exploit through terrorism and subversion.

The Subcommittee on Trade and the Committee on Ways and Means are maintaining close oversight of the implementation of the CBI and its trade impact on the region and on the U.S. economy. Members of the Committee visited five countries in the region in December, 1983 at the request of the Reagan Administration as the process of designating countries for CBI benefits was just being completed.

### E. TRADE WITH ISRAEL LEGISLATION

The major legislative initiative in trade agreement authority during the 98th Congress consisted of legislation enacted as Title IV of the Trade and Tariff Act of 1984 enabling the President to negotiate and enter into a trade agreement creating a free trade area (bilateral duty-free treatment of imports) between the United States and Israel, and to enter its tariff agreements with other countries subject to certain procedural conditions. The Administration requested tariff agreement authority as follow-up to agreement by President Reagan and Israeli Prime Minister Shamir on November 29, 1983 to the Israeli proposal originally made in 1981 to proceed with bilateral negotiations seeking elimination of tariffs and other trade distorting practices between the two countries.

In considering the request, the Subcommittee on Trade held extensive hearings for three days on May 22 and on June 13 and 14, 1984 (Serial No. 98–72) on the proposed free trade area and on H.R. 5377, introduced by Mr. Downey to provide the legislative authority. While a U.S.-Israel free trade area was generally supported by Administration and private sector witnesses as in the overall economic and political interest of both countries, concerns were expressed about the potential impact of duty-free imports of certain Israeli articles, particularly horticultural products, on competing U.S. industries and that provisions of the agreement ensure that U.S. benefits granted under a free trade area accrue solely to, and be fully reciprocated by, Israel. Particular concerns were expressed about Israeli subsidy practices and import restrictions. A basic general concern was the possible precedent of such an arrangement as the first bilateral free trade area ever entered into by the United States and its implications for future U.S. trade policy and the multilateral trading system. In order to investigate some of these concerns firsthand, some Members visited Israel for one week in July, 1984, meeting with Israeli government officials and businessmen and other private sector interests and visiting industrial and agricultural sites. This trip was very useful to the Subcommittee and Committee on Ways and Means in gaining a perspective on the Israeli economic situation and for considering appropriate elements of legislative authority.

On September 12, 1984, the Subcommittee ordered H.R. 5377 reported with a substitute amendment authorizing the President to

enter into and to proclaim a free trade area agreement with Israel, subject to specific rules of origin to ensure that articles receiving duty-free treatment are Israeli articles, requiring continued application of existing trade laws providing relief from unfair trade practices or injurious import competition, and including procedures for expedited relief from injurious imports of agricultural perishables. After receiving assurances from the U.S. Trade Representative that duty-free treatment would be phased in over a period of years on imports of articles where immediate duty-free entry would likely cause injury to U.S. producers, the Committee on Ways and Means reported H.R. 5377 on September 27, 1984 (H. Rept. 98–1092) and the House passed the bill as an amendment to H.R. 3398 on October 2 without any statutory product exclusions.

The House and Senate agreed to an amended version of the authority as Title IV of the Trade and Tariff Act of 1984 which requires Congressional approval of a free trade agreement with Israel prior to its implementation. The Committee on Ways and Means anticipates submission of such an agreement and implementing legislation early in the 99th Congress.

As part of Title IV, the Congress also authorized the President until January 3, 1988 to negotiate and enter into trade agreements eliminating or reducing tariffs with other countries at their request and subject to specific procedural conditions, including Congressional approval of implementing legislation.

### F. STEEL TRADE OVERSIGHT AND LEGISLATION

On October 2, 1984, the House passed H.R. 6301, the Steel Import Stabilization Act, which formed the basis for Title VIII of the Trade and Tariff Act of 1984. This legislation provides the President with authority for up to five years to enforce bilateral arrangements restricting steel exports to the United States, subject to adequate modernization, reinvestment, and retraining efforts by the major U.S. steel producers. Its introduction and enactment into law represented the culmination of a series of developments regarding steel trade issues that began early in the 98th Congress.

In August 1983, legislation to restrict imports of steel mill products was introduced (H.R. 3728) and referred to the Subcommittee on Trade. In November, a new version of the steel quota bill was introduced (H.R. 4352) and referred to the Subcommittee. In January 1984, a petition for import relief was filed with the International Trade Commission (ITC) jointly by Bethlehem Steel Corporation and the United Steelworkers of America under section 201 of the Trade Act of 1974. This petition requested import relief in the form of global quotas set at 15 percent of the U.S. market for five years—the same form of relief provided by the steel quota legislation. In March 1984, a third and final version of the Fair Trade in Steel Act, establishing a 15 percent global quota for five years, was introduced (H.R. 5081) and referred to the Subcommittee.

As the ITC conducted its investigation of alleged injury to the domestic steel industry due to increased imports, the Subcommittee on Trade began hearings on problems in the steel industry. The Subcommittee invited testimony on the steel quota legislation but also was interested in exploring broader issues of trade and com-

petitiveness problems in the steel industry, including foreign unfair trade practices such as dumping and subsidization, effectiveness of the trade remedy statutes in addressing these practices, modernization efforts of the domestic steel industry and its technological competitiveness relative to international competitors, and trends in costs of production. The Subcommittee held hearings on April 26, May 2 and 8, June 20, and August 3, 1984, receiving testimony from the Congressional Steel Caucus, the Administration, the American Iron and Steel Institute, the United Steelworkers of America, steel importers, and a broad and comprehensive range of other parties affected by steel trade.

In the midst of the Subcommittee's hearings, the ITC submitted its report to the President in July finding serious injury in five out of nine steel product categories and recommending releif in the form of global quotas and increased tariffs. In light of the ITC recommendations and the prospects for potential relief under the Trade Act of 1974, the Subcommittee on Trade, after the conclusion of its hearings on August 3, awaited the outcome of the section 201 case before considering action on steel quota legislation.

On September 18, 1984, President Reagan announced his decision to deny import relief under the terms of sections 201–203 of the Trade Act and his intention instead to negotiate bilateral export restraint agreements with steel-exporting countries and to strengthen enforcement of existing laws against unfair trade practices. In light of the President's decision on the section 201 petition, and the domestic steel industry's support of the President's program, thereby diminishing the need for steel quota legislation, Chairman Rostenkowski introduced, with several Committee cosponsors, the Steel Import Stabilization Act (H.R. 6301) on September 25, 1984. This legislation provides the President authority to enforce the quantitative restrictions in bilateral steel agreements, conditioned on adequate performance by the major domestic steel companies with respect to modernization, investment, and worker retraining. Many elements of the legislation reflected concerns raised during the Subcommittee's hearings on problems in the steel industry.

On September 27, 1984, the Committee on Ways and Means favorably reported H.R. 6301 (H. Rept. 98–1089) and on October 2 the House passed the bill as an amendment to H.R. 3398. On October 9, the House and Senate agreed to the Steel Import Stabilization Act as Title VIII of the Trade and Tariff Act of 1984.

The Subcommittee and its staff have been closely monitoring the progress of the recent U.S. negotiations with steel-exporting nations and the provisions of the agreements reached to limit their steel exports to the United States. The Subcommittee expects to continue its oversight of the steel program during the 99th Congress, particularly with respect to the conditions for renewal of enforcement authority specified in the Steel Import Stabilization Act.

### G. DOMESTIC CONTENT LEGISLATION

During the 98th Congress, the Subcommittee on Trade again had before it the controversial domestic content bill. H.R. 1234, the Fair Practices in Automotive Products Act, provided for minimum aver-

age levels of domestically produced components for all motor vehicle manufacturers selling more than 100,000 units in the United States annually.

H.R. 1234 was introduced on February 3, 1983, and referred concurrently to the Committee on Energy and Commerce and the Committee on Ways and Means. The Committee on Energy and Commerce favorably reported H.R. 1234 with an amendment in the nature of a substitute on June 30, 1983. This substitute contained several amendments to the bill as introduced.

The Subcommittee on Trade held public hearings on September 15, 1983 (Serial No. 98–34). Testimony was received from the Administration and major private sector interests, including organized labor. During the 97th Congress, the Subcommittee on Trade held nearly two weeks of hearings on H.R. 5133, a similar domestic content proposal. Because of the extensive hearings on these issues, the Subcommittee requested written comments on H.R. 1234 for new or additional views from all witnesses heard during the 97th Congress.

On September 15, 1983, the Subcommittee on Trade ordered H.R. 1234 reported adversely to the Committee on Ways and Means by a recorded vote of 10 ayes and 3 nays. On September 20, the Committee on Ways and Means ordered H.R. 1234 reported adversely to the House by voice vote. The Committee report spelled out in detail the arguments and the reasons for the Committee's adverse report of the bill (H. Rept. 98–287, Part II).

During House debate on the bill as reported by the Committee on Energy and Commerce, many Subcommittee Members actively participated on both sides of the issue. On Noveamber 3, 1983, the House passed H.R. 1234 by a vote of 219–199.

### H. TEXTILE PROGRAM OVERSIGHT

During the 98th Congress, the Subcommittee on Trade continued its oversight of the Multifiber Arrangement (MFA) which, through a system of bilateral agreements, regulates world trade in textiles and apparel. Members and staff consulted regularly with U.S. textile negotiators on the status and renegotiation of bilateral MFA agreements.

On December 16, 1983, the President issued an executive order establishing additional criteria to be used by the Committee on Implementation of Textile Agreements (CITA) in addressing import increases in categories not presently controlled by quotas which, if met, may trigger a presumption of market disruption. The Subcommittee held extensive consultations with members of the Administration on the purpose and operation of these new changes in the textile program.

In May 1984, the President issued an executive order directing the U.S. Customs Service and CITA to work more closely to prevent circumvention of textile quotas through customs fraud and manipulation of country-of-origin rules. In its oversight role, the Subcommittee and its staff held consultations with Administration officials on the executive order and on the implementing regulations issued on August 3, 1984, which revised the country-of-origin rules as applied to textile and apparel imports. These new regula-

tions, which went into effect on September on an interim basis pending public comment and final promulgation, have been a source of great controversy both within the domestic industry and within the international trade community. The Subcommittee and its staff have been closely monitoring the course of events regarding this issue, and expect to continue close oversight in the 99th Congress.

In anticipation of oversight hearings by the Subcommittee on textiles trade issues early in the 99th Congress, staff toured textile mills in North Carolina as well as apparel factories in the Republic of Korea.

### I. WINE TRADE LEGISLATION

In addition to trade issues affecting the steel, automobile, and textile industries, during the 98th Congress the Subcommittee on Trade also addressed trade problems affecting the U.S. wine and grape product industries. The U.S. wine industry has experienced substantial growth in recent years at the same time the trade deficit in wine has increased, due in paret to relatively low trade barriers to the U.S. market while foreign countries maintain significant trade restrictions to their potential export markets.

The Subcommittee on Trade held hearings November 15, 1983 to receive testimony from Administration officials, representatives of the wine and grape product industries, wine importers, and other private sector interests on H.R. 3795, introduced by Mr. Coelho, to address the inequities in U.S. wine trade and to promote U.S. wine exports. The Subcommittee held an additional day of hearings July 24, 1984 on a substitute proposal.

On September 13, 1984, the Subcommittee ordered reported an amendment to the original bill developed by Mr. Gibbons in cooperation with the sponsors of the original bill and representatives of the wine and grape product industries to address the serious concerns expressed about the earlier proposals. The substitute focuses Administration attention on wine trade problems by requiring negotiations with foreign countries on their wine trade barriers and reports to the Congress on actions taken. The Committee reported H.R. 3795 as amended on September 27, 1984 (H.Rept. 98-1091), which was passed by the House on October 2 an amendment to H.R. 3398. The House and Senate agreed to the provisions as Title IX of the Trade and Tariff Act of 1984.

### J. LEGISLATION ON TRADE RECIPROCITY, SERVICES, FOREIGN INVESTMENT, HIGH TECHNOLOGY GOODS

Among the trade issues of increasing interest in the 98th Congress was the perception that U.S. trade relations with its major trading partners are not conducted on a reciprocal basis, that the United States "plays by the rules" while foreign countries engage in unfair trade practices and maintain a higher level and greater variety of trade barriers to U.S. exports at least in particular sectors. Also, trade in services has become of increasingly major importance to the U.S. economy and foreign restrictions to trade in services and high technology goods and barriers to foreign investment have gained greater attention as new areas of future export

growth potential in which international trading rules need to be developed.

Numerous legislative proposals to address these issues were introduced and considered by both House and Senate Committees during the 98th Congress. The Subcommittee on Trade issued an invitation on August 5, 1983 for written comments on H.R. 1571, introduced by Mr. Jones to expand reciprocal market opportunities and reduce barriers to trade in services, high technology goods, and direct investment, and on H.R. 2848, introduced by Mr. Florio and sequentially referred from the Committee on Energy and Commerce on service industries. The Subcommittee and Committee on Ways and Means favorably reported H.R. 1571 and adversely reported H.R. 2848 during September, 1983.

In the closing days of the 98th Congress, the Committees on Ways and Means and Energy and Commerce developed a substitute version of H.R. 2848 on service industries trade issues, which passed the House on October 2, 1984 as an amendment to H.R. 3398. The House and Senate then agreed to Senate provisions similar to those in H.R. 1571 with amendments to expand reciprocal market opportunities and to deal with trade barriers to services, foreign investment, and high technology goods as Title III of the Trade and Tariff Act of 1984.

### K. CUSTOMS SERVICE OVERSIGHT AND LEGISLATION

During the 98th Congress, the Subcommittee on Trade maintained close oversight of the U.S. Customs Service. In addition to authorizing legislation, the Subcommittee closely monitored the operations and organization of Customs. Both the staff and Members of the Subcommittee frequently met and were briefed by Customs officials on a number of Customs issues.

Largely in response to concerns expressed by the Subcommittee concerning duplication of functions in the processing of incoming passengers, the Administration proposed in 1984 to consolidate the primary inspection and land patrol functions of the Immigration and Naturalization Service and the U.S. Customs Service. If properly implemented, such a consolidation should improve passenger clearance and reduce paperwork, streamline processing, strengthen law enforcement, and provide budgetary savings. The Subcommittee will be carefully monitoring the implementation of this consolidation in the 99th Congress to insure that the processing of commercial shipments will not be affected and that the consolidation is carried out without disrupting services. It is expected that Customs would continue to have primary responsibility for the inspection and clearance of commercial importations at all ports and that import specialists will continue to be involved in the appraisement and classification of all commercial shipments.

The Subcommittee continued to monitor closely the operation of Customs' Operation Exodus program, which is designed to protect national security by intercepting illegal high-technology exports.

During the 98th Congress, staff and Subcommittee Members have again maintained oversight on the development of the Harmonized Commodity Classification System under the auspices of the Customs Cooperation Council (CCC) in Brussels, Belgium. The

Harmonized System is a new international system for the Customs classification of goods in international trade. The U.S. participation was mandated by Congress under section 608 of the Trade Act of 1974. The oversight activity involves monitoring executive branch and U.S. International Trade Commission participation as well as proceedings in the Harmonized System Committee of the CCC. During the 98th Congress, the development of the basis system was completed and an international convention is now ready for signature. Should the U.S. become a signatory, Congressional approval would be required to implement changes in the Tariff Schedules of the United States (TSUS) and international negotiations under Article XXVIII of the GATT must be entered into to ensure that our international tariff rights and obligations are not impaired. Staff of the Subcommittee on Trade recently attended GATT preparatory meetings in Geneva for such Article XVIII negotiations. It is expected that the Subcommittee will be very actively involved in the 99th Congress in the domestic and international implementation of the Harmonized System. In addition, the Subcommittee continues to monitor the general activities of the CCC, a 93-member international organization which deals exclusively with Customs matters. A member of the Subcommittee staff recently spent several days in Brussels meeting with high-level officials of the CCC discussing the work program of that organization.

The House approved a number of Subcommittee legislative measures in the Customs area. The allowance for informal entry was increased from $250 to $1250 with certain exclusions for particularly sensitive articles. The due date for the payment of additional duties found to be owed to the Customs Service was changed to 15 days after the date of liquidation or reliquidation, and if not paid within 30 days after that date, interest would be assessed from the 15th day after the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury. The Government would also be liable for interest if the importer later substantiates his claim.

The House also approved comprehensive changes to the Tariff Act of 1930 with respect to the licensing of customs brokers. The legislation defines the term "customs business" and restricts the scope of Customs' review of customs brokers to such customs business. It also specifies that only licensed brokers may conduct customs business for third parties; sets forth licensing and permit procedures; establishes a duty for customs brokers to exercise responsibility and control over their customs business; and provides disciplinary proceedings, including monetary penalties and revocation or suspension of licenses or permits.

Several provisions were approved that would expand the application of current drawback provisions and another provision provides for the public disclosure of certain available manifest information on imports into the United States. Information on cargoes concerning defense related or foreign policy information will not be available for public disclosure. This provision will require Customs to adopt similar practices regarding disclosure of import information as it now must follow for export information.

A waiver exemption from entry requirements was also approved for certain vessels carrying passengers from the U.S. Virgin Islands

to the British Virgin Islands and returning. Additionally, U.S.-flag vessels that are away from a U.S. port for at least two years would be exempted from the 50 percent ad valorem duty on repairs and equipment purchases, provided the repairs or equipment purchases were not made within 6 months of departure from a U.S. port and the vessel did not depart from a U.S. port for the purpose of obtaining overseas repairs.

A new section was added to the Tariff Act of 1930 establishing civil penalties of $10,000 for each violation of imports or exports of stolen self-propelled vehicles, vessels, aircraft and parts thereof. A verification procedure with appropriate documentation would also be established and any failure to comply would result in a civil penalty of $500. Customs officials are also encouraged to cooperate with other law enforcement agencies.

A provision exempting bicycle component parts from the exemption from the customs laws available to merchandise in foreign trade zones was adopted as was a provision permitting State and local government authorities having jurisdiction over airports or other exit points to require that operators of duty-free sales enterprises in such locations obtain concessions or approval before beginning business. Another provision would require the Commissioner of Customs to establish a customs district in the Pacific Northwest to be called the "Columbia-Snake River Customs District" with headquarters in Portland, Oregon.

Finally, significant improvements were made in Customs enforcement provisions of the Tariff Act of 1930 to deal with the growing narcotics problem. The amendments provide for a more streamlined approach for handling civil forfeitures and expand the arrest authority for customs officers. Administrative rather than judicial forfeiture proceedings would be available in many more cases as a result of increasing the current ceiling from $10,000 to $100,000 for most articles and removing the ceiling entirely for prohibited merchandise and conveyances which are used to import, export, transport, or store any controlled substance. The amount of the bond which is required to be posted in order to require a judicial forfeiture would be raised from $250 to the lesser of $2,500 or 10 percent of the value of the property. Additionally, a Customs Forfeiture Fund would be established to help defray the escalating costs associated with forfeiture procedures and provide the authority for Customs to transfer seized or forfeited property to State or local law enforcement agencies. Finally, the compensation level which can be paid to informers would be increased from $50,000 to $250,000.

### L. MISCELLANEOUS TARIFF AND TRADE LEGISLATION

During each session of the Congress, the Subcommittee on Trade holds public hearings and reports to the full Committee on Ways and Means miscellaneous tariff and trade bills proposing temporary duty reductions, suspensions of duties, or changes in classification relating to individual products or import entries. These bills are carefully considered in light of compelling circumstances of inadequate domestic supply, unusually demanding conditions, or long-run changes in market conditions warranting special legislation. The legislative activity devoted to miscellaneous bills provides

an important oversight tool for reviewing the tariff system and its impact on individual competitive situations.

During the 98th Congress, the Subcommittee favorably reported 90 miscellaneous tariff bills, 85 of which were subsequently reported by the Committee on Ways and Means. Eighty-five miscellaneous trade bills passed the House in two omnibus bills, H.R. 3398 and H.R. 6064. Subsequently in the closing days of the 98th Congress, the House and Senate agreed on and passed 103 such bills as Titles I and II of the Trade and Tariff Act of 1984.

### M. TRADE ADJUSTMENT ASSISTANCE OVERSIGHT AND LEGISLATION

The most recent major oversight activity by the Subcommittee on Trade of the trade adjustment assistance (TAA) programs for workers and firms under the Trade Act of 1974 since their legislative revision in 1981 took place in 1983 in conjunction with legislation introduced by Mr. Pease (H.R. 925, H.R. 2083, and H.R. 3391) to extend and make various amendments in the coverage and operation of the programs. The Subcommittee held hearings February 15, 1983 on the subject matter, receiving testimony from Administration officials in opposition to TAA continuation and from labor unions, industry representatives, and individual firms in support of the programs. The Subcommittee ordered H.R. 2083 reported on April 20, 1983 and on June 29 the Committee on Ways and Means favorably reported H.R. 3391 reflecting amendments to H.R. 2083 (H. Rept. 98-281). The House passed H.R. 3391 on September 15, 1983.

On September 29, the day before the programs were due to expire, section 10 of H.R. 3391, providing for a two-year extension until September 30, 1985, was added as a Senate amendment to H.R. 3813, agreed to by the House on September 30, and enacted as Public Law 98-120 on October 12, 1983. Some minor amendments in H.R. 3391 to the worker and firm programs were later included as sections 2671-2673 of H.R. 4170, the Deficit Reduction Act of 1984, enacted as Public Law 98-369 on July 18, 1984.

In addition, the Subcommittee reviews TAA program activity during its annual fiscal year budget authorization hearings on trade agency operations, most recently on February 7, 1984 (Serial No. 98-60).

### N. U.S. CUSTOMS SERVICE, U.S. INTERNATIONAL TRADE COMMISSION, U.S. TRADE REPRESENTATIVE BUDGET AUTHORIZATION LEGISLATION

The Subcommittee on Trade conducts annual oversight of major trade agencies of the Federal Gvoernment through budget hearings in February and the consideration of legislation authorizing appropriations for the U.S. Customs Service, U.S. International Trade Commission (USITC), and the Office of the U.S. Trade Representative (USTR). For fiscal year 1984, the Subcommittee reported H.R. 2602 on April 27, 1983, which the Committee on Ways and Means reported on May 11 (H. Rept. 98-105). The House passed the bill on May 17, 1983, but it was not acted upon by the Senate.

For fiscal year 1985, the Subcommittee reported H.R. 5188 on March 28, 1984, which was reported by the Committee on April 5 (H. Rept. 98-654) and passed by the House on May 1. In the closing

days of the 98th Congress, the House and Senate agreed to include authorization provisions for the three agencies as Titles VII of the Trade and Tariff Act of 1984.

In hearings and the authorization legislation relating to the U.S. Customs Service, the Subcommittee made certain recommendations with respect to overtime pay of Customs inspectors and placed a ceiling on expenditures for "Operation Exodus"; prohibited the imposition of interest charges during the 10-day deferral period for the deposit of estimated duties; provided for the public disclosure of certain manifest information; and precluded the final adoption of any change in rules revising or eliminating sureties on customs bonds.

With respect to USITC, through hearings and authorization legislation, the Subcommittee has limited increases in expenditures and helped to create one of the most efficient agencies in the Federal establishment, at a time when the Commission's caseload has increased dramatically reflecting poor economic conditions worldwide. Subcommittee members and staff maintain day-to-day consultations with Commissioners and the Commission staff with respect to specific issues and operation and administration of import relief and unfair trade practice statutes. From time to time the Subcommittee also requests special studies by the Commission of particular current trade issues.

Hearings and authorization legislation enable the Subcommittee to oversee the operation of the office of the U.S. Trade Representative. As an Ambassador with Cabinet rank, the U.S. Trade Representative is responsible for developing, coordinating, and implementing U.S. trade policy. As explained in the trade agreements and trade policy sections above, the Subcommittee and its staff are in daily contact with the USTR officials, consulting on current trade issues, negotiations and planning for bilateral and multilateral trade activities, and draft or pending legislation.

### O. U.S. TRADE DEFICIT OVERSIGHT

The rapidly growing U.S. merchandise trade deficit is a serious concern to U.S. businesses and policymakers. The deficit is expected to exceed $130 billion in 1984. A trade deficit of that magnitude dwarfs all other in U.S. history, even though the 1983 deficit of about $70 billion was more than twice as large as the 1982 deficit.

To improve its understanding of the causes, implications, and possible solutions for the trade deficit, the Subcommittee on Trade held extensive hearings in April and May of 1984. Testimony was received from a broad spectrum of witnesses representing the Administration, Congress, the banking community, business, labor, and private economists. While there was by no means unanimity in witnesses' views, certain major themes emerged.

Three factors were singled out by most witnesses as the primary causes of our rapidly mounting trade deficit:

1. Recovery of the U.S. economy in advance of the economies of our major trading partners, which has led to rapid growth of U.S. imports and stagnant growth in exports.

2. The international debt situation, which has forced debtor countries (particularly in Latin America) to curtail imports sharply.

3. A substantially overvalued dollar, which has raised the cost of U.S. exports and lowered the cost of our imports.

The overvalued dollar was blamed by witness after witness for the bulk of our export woes; some experts testified that the high dollar was responsible for fully 50 percent of the growth in our trade deficit. Although the dollar's value can be measured in a number of different ways, the dollar is now about 25 percent above its average level during the entire eleven years period of floating exchange rates.

The massive U.S. fiscal deficit was seen as a major cause of high real interest rates and the overvalued dollar. Most Subcommittee Members agreed that a sustained effort to reduce the budget deficit would go a long way toward improving the U.S. trade stance. Most witnesses and many Subcommittee Members also felt that such measures as a general import surcharge should be avoided as counterproductive and as failing to address the underlying causes of the trade deficit.

### P. UNITED STATES-JAPAN BILATERAL TRADE OVERSIGHT

The U.S. bilateral trade relationship with Japan has been a source of great concern to the Subcommittee on Trade for many years, and continued to be during the 98th Congress. The U.S.-Japan relationship is one of the most important in the world, both strategically and economically. Yet the relationship continues to be fraught with controversy, due in part to the growing U.S. trade deficit with Japan as a major factor in the ever-increasing U.S. trade deficit overall but also to the widespread perception in the United States and in many of Japan's other trading partners that the Japanese market is not as accessible to foreign goods as are the U.S. and other markets to Japanese goods. A strong sense of unfairness underlies U.S. frustration. Resolution of trade disputes with Japan, especially market access issues, progressed slowly, although with some success in certain areas.

The Subcommittee on Trade held an extensive series of hearings on March 10 and April 26 and 27, 1983, to examine various aspects of our bilateral trade relationship (Serial No. 98- ). The Subcommittee focused primarily on Japanese industrial policy, the yen/dollar exchange rate, and on tariff and nontariff barriers to U.S. exports.

The hearings were held in conjunction with a Trade Mission to Japan and the Republic of Korea, headed by Subcommittee Chairman Sam M. Gibbons and including Members of the Subcommittee. The trip, which took place from March 25 to April 4, 1983, included nearly one week in Japan. While in Japan, the Trade Mission met with high level Japanese Government officials, including the Prime Minister; with U.S. Embassy officials; and Japanese and American business representatives.

The purpose of the Trade Mission was two-fold: fact-finding and educational. The fact-finding purpose was for the Members to gain a better understanding of the conditions surrounding our bilateral

trading relationship with Japan and a precise knowledge of the status of current trade disputes.

The educational purpose was for Japanese government and business leaders to understand, through face-to-face discussions with Members of Congress, that our trading relationship has become a contentious political issue in the United States, and that increased access to the Japanese market for U.S. goods and services is necessary if good commercial and political relations between our two countries are to be maintained. During the discussions with Japanese leaders, much attention was directed to the issues of Japanese industrial policy and the yen-dollar relationship. As part of the Trade Mission, the delegation had plant tours of the Texas Instruments facility in Kyushu, the Nissan Motor Company plant in Kyushu, the Nippon Kokan Keihin Steel Works (Ohgishima complex) in Kawasaki, and the Mitsubishi Heavy Industries Shipyard in Nagasaki. Upon its return from the Trade Mission, the Subcommittee issued a report on its findings.

The Trade Subcommittee concluded on the basis of its hearings and Trade Mission, that the trade impact of Japan's industrial policies are of serious concern, and U.S. trade laws should be examined and changed if necessary to counter Japanese policies that violate international trading rules. A second area of considerable concern was the yen/dollar exchange rate and the effect of its instability on U.S. competitiveness. Among other suggestions made to the Japanese by the Subcommittee was that Japan fully open its financial system to participation by foreigners. Members of the Delegation also suggested that currency exchange rates and the international monetary system be discussed, beginning at the Williamsburg Economic Summit in the summer of 1983.

Throughout the 98th Congress, the Subcommittee and its staff monitored U.S.-Japan trade relations carefully, and had frequent consultations with U.S. negotiators on the status of U.S.-Japan discussions on specific issues such as beef and citrus, tobacco, NTT procurement, high technology trade, standards and certification systems, and automobile trade. Staff also attended meetings on these subjects with Japanese government and business leaders in Tokyo. The Subcommittee expects its oversight activity with respect to U.S.-Japan trade issues to remain extensive through the 99th Congress.

### Q. EAST-WEST TRADE OVERSIGHT

During the 98th Congress, the Subcommittee on Trade continued active oversight activities into trade developments and emigration policies of Eastern Europe, the Soviet Union, and the People's Republic of China [PRC]. Under Title IV of the Trade Act of 1974, specific freedom of emigration requirements are set forth which limit the President's ability to grant nondiscriminatory or most-favored-nation [MFN] status to certain nonmarket economy countries. However, the President may waive these prohibitions subject to Congressional approval, if he determines that the extension of trade benefits would encourage freedom of emigration.

Under current law, Romania, Hungary, and the PRC receive MFN treatment with respect to U.S. tariffs and are eligible for gov-

ernment-supported credits from the Export-Import Bank [Eximbank] and the Commodity Credit Corporation [CCC]. Poland's MFN status was indefinitely suspended by the President in October 1982. The United States does not presently extend MFN treatment to the German Democratic Republic (East Germany), Czechoslovakia, or Bulgaria, although all three have expressed strong interest.

On June 3, 1984, President Reagan transmitted to the Congress his recommendation that the waiver authority be extended for a further 12-month period and that waivers applicable to Romania, Hungary, and the People's Republic of China will substantially promote the objectives of the statute. The Subcommittee held hearings on July 14, 1983 and heard witnesses from the Administration and private sector. Although three resolutions to disapprove the extension of the waiver authority were introduced, the Committee on Ways and Means adversely reported them to the House (H. Repts. 98-315, 98-316, 98-317). The House postponed indefinitely their consideration on August 1, 1983.

On April 19, 1983, Congressman Gibbons introduced H.R. 2603, which would accord to Hungary for a period of 5 years (through July 2, 1988) MFN status and access to U.S. credits and credit and investment guarantees without the otherwise mandatory annual review of the waiver authority and, on April 27, also introduced H.R. 2770, applying the same provisions to the People's Republic of China as well as Hungary ("multiyear MFN").

On February 21, 1984, Congressman Schulze introduced H.R. 4886, which would deny MFN status and access to U.S. credit and guarantee programs to nonmarket economy countries that condone or encourage religious discrimination or which condone or encourage harrassment of would-be emigrants. Although no action was taken on these bills, a hearing was held by the Subcommittee on Trade on H.R. 2603 on May 10, 1983, in conjunction with other miscellaneous tariff and trade bills. (Serial No. 98-17, at 901).

Between November 26 and December 15, 1983, the Subcommittee conducted an extensive factfinding mission through the countries of Central and Eastern Europe. The delegation visited the German Democratic Republic, Czechoslovakia, Hungary, Romania, and Bulgaria. The delegation also visited West Berlin and Vienna, Austria, cities which play an integral part in East-West relations and trade. The delegation concluded its mission in Turkey, a strategic NATO ally of the United States.

Prior to departure, Members and staff prepared extensively for the mission. This included briefings by Administration officials and experts, working breakfasts with Eastern European Ambassadors and diplomats, and a thorough review and discussion of briefing materials supplied by the various agencies. Also utilized was the international radio broadcasting services of the Voice of America to communicate with the people of the region and to support the mission in Eastern Europe.

The primary purpose of the trade mission was to examine opportunities for improving commerce and trade with Eastern bloc countries and to assess the operation of Title IV of the Trade Act. In each capital, the delegation met with high level government, party, and industry leaders. Since travel outside the capitals was considered important in providing exposure to a wider spectrum of life

and economic conditions, the delegation traveled by bus through all the countries except Bulgaria and Turkey. Travel by bus not only provided the delegation with a forum for concentrated briefing sessions and discussions with U.S. Embassy and host country diplomats, but also enabled the Members to meet with local officials and visit small towns, farms, and factories that would otherwise not have been possible. The delegation found this most beneficial in view of the vast differences between the countries. Following the mission, the delegation filed an extensive trip report enumerating its findings, with a summary of discussions and recommendations (WMCP 98–29).

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